

44.P84/10:96-1

# IMPLEMENTATION OF THE PANAMA CANAL TREATY OF 1977

---

## HEARINGS BEFORE THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

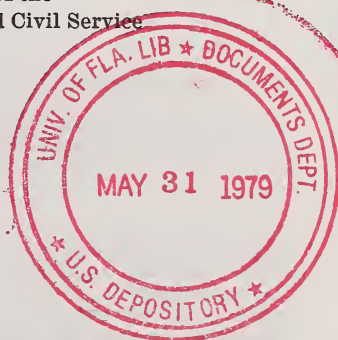
### H.R. 1716 and H.R. 111

BILLS TO IMPLEMENT THE PANAMA CANAL TREATY OF 1977  
AND RELATED AGREEMENTS, AND FOR OTHER PURPOSES

FEBRUARY 16, 17, MARCH 12 AND 15, 1979

### Serial No. 96-1

Printed for the use of the  
Committee on Post Office and Civil Service



U.S. GOVERNMENT PRINTING OFFICE

41-698 O

WASHINGTON : 1979

# IV

## WITNESSES FOR MARCH 12, 1979

Statement of—	Page
Alexander, Hon. Bill, a Representative in Congress from the State of Arkansas .....	251
Campbell, Hon. Alan K., Director, Office of Personnel Management .....	226
Murphy, Hon. John M., a Representative in Congress from the State of New York .....	182
Popper, David H., Special Representative of the Secretary for Panama Treaty Affairs .....	201

## WITNESSES FOR MARCH 15, 1979

Statement of—	
Blumenfeld, Michael, Deputy Under Secretary of the Army, accompanied by Col. Mickael Rhode .....	261
Jameson, John F., Assistant Secretary for Administration, Smithsonian Institution .....	288
Sanders, W. Allen, Acting Deputy General Counsel, U.S. Postal Service ....	225
Statements submitted for the record—	
Cotton, F. A., Civil Affairs Director, Canal Zone Government .....	294
Innes, Douglas D .....	292
Nilan, Patrick J., national legislative director, American Postal Workers Union .....	291
Werner, Norman A., branch agent, Organization of Masters, Mates and Pilots .....	293
Response to additional questions subsequent to the hearing from—	
Parfitt, H. R., Governor, Panama Canal Zone.....	294
AFL-CIO Maritime Committee .....	297
Canal Zone Central Labor Union and Metal Trades Council, AFL-CIO .....	301
American Federation of State, County, & Municipal Employees .....	302
American Federation of Teachers, AFL-CIO .....	306
International Organization of Masters, Mates, & Pilots of America .....	308

## H.R. 1716 AND H.R. 111—TO IMPLEMENT THE PANAMA CANAL TREATY

---

FRIDAY, FEBRUARY 16, 1979

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,  
BALBOA TRAINING CENTER,  
*Balboa, Panama Canal Zone.*

The committee met, pursuant to notice, at 10 a.m., Balboa Training Center, Balboa, Panama Canal Zone, Hon. James M. Hanley (chairman of the committee) presiding.

Members present: Representatives Hanley, Wilson, Schroeder, Spellman, Derwinski, Taylor, and Corcoran.

The CHAIRMAN. We are pleased to be here in Panama this morning to hear firsthand your concerns about the implementation of the Panama Canal Treaty of 1977.

At this point, I would like to introduce the other members present: Mr. Derwinski of Illinois, Mr. Wilson of California, Mr. Taylor of Missouri, Mrs. Schroeder of Colorado, Mr. Corcoran of Illinois, and Mrs. Spellman of Maryland.

The committee is considering two bills to implement the treaty—H.R. 1716, that is the proposal submitted to the Congress by the Carter administration, and H.R. 111, which was introduced by Mr. Murphy as an alternative to the administration's proposal.

The provisions which are of particular concern to this committee, those relating to the treatment of employees, are found in title III of both H.R. 111 and H.R. 1716. Generally speaking, the two bills contain only minor differences with respect to those matters of particular concern to this committee.

We are concerned about and look forward to comments on a number of issues such as the employment system, placement assistance to be provided, special retirement benefits and options, and the labor-management relations framework which will be established pursuant to any implementing legislation.

We are particularly concerned that employees here be treated justly and fairly during the transition period which will occur under the treaty. With respect to these matters, we welcome your comments and your advice.

In the course of these hearings, in recognition of the number of witnesses we will entertain, in all probability committee members will not have the opportunity to pose many questions. By virtue of their not doing that, do not think that there is a lack of interest. Our purpose here is to hopefully entertain every witness who asked to be heard.



We really put ourselves in the role of listeners today and tomorrow and Monday, if need be. Our purpose here is to develop a background upon which we will make sound judgment in the House of Representatives when it comes time to deliberate and consider and make decisions with respect to this implementing legislation.

Before hearing from our first witness, I would like to defer to the ranking member of the committee, Mr. Derwinski.

Mr. DERWINSKI. Thank you, Mr. Chairman.

I would like to emphasize the point that you made that we are here to listen. We have a major responsibility in this legislation and our committee is concerned. I think we will come away from this visit as well equipped as we possibly can be to meet our part of the legislation in a responsible fashion.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mrs. Schroeder?

Mrs. SCHROEDER. Mr. Chairman, I just wanted to ask a question. Some of us have quite a few questions and I know we have an awful lot of witnesses. If we get into a bind and have a package of questions, would it be possible to submit them for the record and have them answered that way so we can get as thorough a record as possible?

The CHAIRMAN. The gentlelady makes a good point. In the event the member doesn't have the opportunity to pose that question, the question will be submitted in writing and we will anticipate a response to that question in writing for the purpose of its being recorded in the minutes of this hearing.

Does any other member at this point wish to be heard?

Mr. Wilson?

Mr. WILSON. Just a question, Mr. Chairman.

I notice some of these statements are fortunately very brief and some others are quite long. Is it going to be the policy of the Chair to allow the witnesses to make their complete statement or are you going to suggest that they try to keep it within 5 or 10 minutes at the most and perhaps summarize it?

I hate to get into summaries because sometimes they wind up longer than a prepared statement.

The CHAIRMAN. Mr. Wilson, it is the intent of the Chair to request of each witness to accommodate our time problem and to briefly summarize that text, making orally the most significant points contained in your written testimony. Your full text will become a part of the minutes of this hearing.

But for the sake of brevity, and again so that we will have the opportunity to accommodate each of the scheduled witnesses, we urge that you restrict your presentation at the table to a summary, making only the most important points that you feel should be orally called to the attention of this committee.

Are there any further comments?

Mrs. Spellman?

Mrs. SPELLMAN. Yes, Mr. Chairman.

I did want to make the point that on the 8th of March and on the 13th of March there will be additional hearings in Washington on those matters referring to compensation and retirement. Also,



Mrs. Schroeder will be holding hearings on the labor-management section, although I don't know yet what the dates will be.

In any event, I wanted folks to know that there will be an additional opportunity to consider this legislation.

The CHAIRMAN. I thank you, Mrs. Spellman. Again, that is important information. What we are doing here this morning initiates the hearing process. As Mrs. Spellman has advised us, further hearings will be conducted in Washington.

Are there further comments from members? If not, the first witness this morning is Gov. Harold R. Parfitt.

Governor, we welcome you. We are very pleased that you see fit to take time from your extremely busy schedule to join with us this morning. We are confident that what you have to say will serve a very meaningful purpose from the standpoint of our deliberations. For the purpose of the record, you may introduce your associates.

**STATEMENT OF HON. HAROLD R. PARFITT, GOVERNOR OF THE CANAL ZONE, ACCOMPANIED BY JOHN HAINES, LEGAL STAFF**

Governor PARFITT. Mr. Chairman and members of the committee, with me today is Mr. John Haines, a member of our legal staff.

I am very appreciative of the opportunity to appear before you today to testify concerning the legislation which has been drafted to implement the Panama Canal Treaties of 1977 and related agreements.

As you know, the treaty will enter into force in October 1 of this year. When it does, the Canal Zone which has existed under U.S. jurisdiction since its creation in 1904 will be disestablished and the Republic of Panama will assume plenary jurisdiction over that area in accordance with the terms of the treaty.

That document requires that, upon entry into force, the present Canal agencies—The Panama Canal Company and the Canal Zone Government—cease operations in what is now the Canal Zone. It also states that the United States will carry out its responsibilities to manage, operate, and maintain the waterway until the end of the century by means of a new U.S. Government agency called the Panama Canal Commission.

To date, two bills designed to establish this new agency and implement other non-self-executing provisions of the treaty documents have been presented to the Congress. The first of these, H.R. 111, sponsored by the chairman of the Merchant Marine and Fisheries Committee, was introduced on January 15. The administration, on January 31, submitted a draft bill introduced as H.R. 1716. They differ in many substantive respects, especially concerning the financial framework to be established for the Panama Canal Commission.

There do not appear to be any significant differences between the two bills concerning employee rights and benefits. While I will defer to the Office of Personnel Management on the details of these provisions, I would like to discuss their broad outlines in view of the committee's interest in this area. I welcome the opportunity to do so because of the importance of this portion of the bills to our employees and, hence, to the continued efficient functioning of the Panama Canal.

## EMPLOYEE PROVISIONS

As you may appreciate, the last 18 months have been particularly trying for our work force. Faced with considerable uncertainty concerning their futures throughout the period of negotiations and, later, during the Senate debates of the new treaties, employees of the Canal agencies nevertheless continued to perform their jobs at their usual high level of efficiency. They are still doing so, even though they do not know what the statute implementing the treaty will ultimately hold in store for them after the legislative process has been completed. You may be assured, however, that the workers in the Canal Zone are intimately familiar with the contents of the two bills dealing with employee rights and benefits, and that they will follow their progress closely.

To begin the review of the employee provisions, I would like to call your attention to article X of the treaty. Under its provisions, the Commission is authorized to pay, over and above basic compensation, additional remuneration to certain categories of employees.

Accordingly, the bills would authorize the head of U.S. Government agencies operating in Panama to pay overseas recruitment and retention differentials to (a) persons employed by the Company/Government or other U.S. Government agencies in the Canal Zone before October 1, 1979; (b) to those recruited after that date from outside of Panama; and (c) to medical doctors employed by the Department of Defense or the Commission.

Both bills fix the ceiling on this differential at 25 percent of the rate of basic compensation paid for the same or similar work performed by U.S. Government employees in the United States.

A differential, currently 15 percent, has been paid by the canal for many years and has provided one of the most effective incentives for recruitment and retention of a skilled work force. Since the need for highly skilled employees not readily available in Panama will continue for the foreseeable future, we consider this provision to be an important one.

## TERMS AND CONDITIONS OF EMPLOYMENT

With the inevitably significant change which the loss of U.S. jurisdiction will bring, the bills recognize the importance of preserving, to the maximum extent possible, the present quality of life for canal employees by placing in the law the treaty guarantee that the terms and conditions of employment with the Panama Canal Commission will in general be no less favorable to persons already employed by the Company/Government than those in effect prior to October 1, 1979.

These provisions would extend that guarantee to those Company/Government employees who are transferred to other U.S. Government agencies in Panama as a result of the treaty.

The 22 specific conditions of employment which would be protected are listed in the bills and include such things as wage rates, reinstatement and restoration rights, injury and death compensation benefits, transportation and repatriation benefits, and leave and travel except as modified to provide equity with other employees in the agency to which the employee is transferred.



The leave and travel provision has been construed by the Department of Defense to allow employees who are transferred to that agency to be converted to the leave and travel system applicable generally in the Federal Service over a period of 3 years.

For those U.S. citizen employees of the Company/Government who are either displaced as a result of the treaty or who decide that they do not want to continue their employment in Panama, the bills would require the Office of Personnel Management to develop and administer a Government-wide program of placement assistance.

This provision we view as an equitable one since the great majority of our U.S. citizens signed on with the canal on the assumption that they could spend their careers living and working under U.S. jurisdiction.

In addition to the recruitment and retention remuneration I referred to earlier, the bills would require that U.S. citizen employees of the Commission be paid an allowance to offset the cost-of-living increases they will experience as a result of losing military postal, commissary, and exchange privileges. As you know, this will occur in October 1984, 5 years after the treaty enters into force.

#### EARLY RETIREMENT

Probably the most publicized parts of the proposed bills—and to many of our employees the most important—deal with early retirement benefits. These provisions would allow employees who are involuntarily separated or scheduled to be separated as a result of implementation of the treaty to retire under more liberalized eligibility criteria than are normally available under a major reduction-in-force situation.

For example, instead of requiring 25 years of service at any age or 20 years at age 50, with reduced annuity, the bills would require 20 years of service at any age or 18 years at age 48. In addition, the bills would not impose a reduction in annuity because of the age at which the employee retires.

More important to the agency and its employees, however, are those provisions which would recognize the impact of the treaty on living and working conditions by granting a continuing option, throughout the life of the treaty, that is, through 1999, for employees, U.S. and non-U.S. citizens alike, to retire voluntarily under similar liberalized eligibility criteria.

To illustrate, an employee could retire voluntarily any time after he attains 23 years of service regardless of age, or after reaching age 48 and 18 years of service. Again, there would be no reduction in annuity because of the age at which the employee retires. Finally, those electing to stay on with the Commission would have their annuities computed at a higher rate than normal.

While the Office of Personnel Management has authorized early optional retirement for canal workers under existing major RIF provisions, our employees must exercise that option, if at all, between April 1 and September 30, 1979. Because the option is available for a limited period of time prior to treaty effective date, it will not contribute to the retention of our work force beyond October 1.



As I said, many of our employees consider the early retirement provision of the treaty legislation to be the most important one and a good percentage are deferring decision as to their futures until they know what the law will provide on that subject.

If enacted in its present form, some will undoubtedly take advantage of its provisions and retire at once. I have high hopes, however, that the continuing option feature—that is, the fact that the option to retire under the liberalized eligibility and calculation criteria I have outlined will remain open throughout the life of the treaty—will cause the great majority to stay and give it a try with the Commission.

If I am correct in that assessment, this should afford an opportunity for officials of the Commission and the Government of Panama to provide that transfer of jurisdiction can be effected without the kind of adverse consequences which have worried our employees.

Assuming this can be done, and we are optimistic in this regard, then I believe that this early retirement option will do more than any other single feature of the legislation toward maintaining a skilled work force at the canal.

If, on the other hand, the legislation were to be enacted with a significantly less liberal version of the early retirement option in it, I also believe that our ability to retain needed skills would be very seriously curtailed.

In the area of labor-management relations, both bills would place in the law the treaty's recognition of the right of Commission employees to negotiate collective contracts. The collective bargaining system to be established would be developed along the lines of that contained in title VII of the Civil Service Reform Act.

#### SPECIAL IMMIGRATION

There is one other provision of the bill which is of special interest to non-U.S. citizen employees in that it would confer special immigrant status on certain persons:

First: Non-U.S. citizen employees of the Company or Government who, on the effective date of exchange of instruments of ratification, are residing in the Canal Zone and who have performed faithful service for at least 1 year;

Second: Panamanians who, prior to the entry into force of the treaty, have honorably retired from Government service in the Canal Zone with 15 or more years of faithful service; and

Third: Panamanians who, on the date of entry into force, have been faithfully employed by the U.S. Government in the Canal Zone for at least 15 years and who later honorably retire from that employment.

This special immigrant status would also be extended to the spouse and children of employees in those three categories.

The administration's bill would waive the public charge provision with respect to these people for the 30-month transition period. This would, I believe, be an adequate period for those dedicated employees, whom I have just identified, to immigrate, under the waiver of the public charge provision, to the United States. H.R.

111, on the other hand, would place no time limit on the waiver and thus could establish a dangerous precedent.

The special immigration provision is intended to afford longtime non-U.S. citizen employees who have spent their careers working with the U.S. Government on the isthmus, as well as those residing under U.S. jurisdiction in the Canal Zone, the opportunity to come to this country if they so desire.

This provision would appear to constitute an appropriate expression of appreciation by the U.S. Government for the contribution made by these loyal employees, many of whose ancestors participated in the construction of the waterway.

#### TIMELY PASSAGE OF LEGISLATION

I would like to take advantage of the committee's invitation to testify here today to stress the need for timely enactment of the treaty implementation legislation. In our view, delay in its passage beyond early summer will impact adversely on our personnel administration, labor relations, financial management, and relocation of activities. If I may take a few minutes to do so, I would like to review for you some of the more important problem areas which we have been able to identify.

In the field of personnel, for example, the Department of Defense and canal agencies, as well as many Panama Canal employees, will be adversely affected if the early optional retirement provisions are not in force by July 1. Lack of the early-out retirement option will leave employees not otherwise eligible to retire little choice but to accept transfers to DOD agencies and placement offers within the Panama Canal Commission. However, many of these same individuals will retire as soon as the treaty legislation is passed. If this occurs after July 1, it may be too late for DOD to rework the reduction-in-force action it will have underway at that time and too late to recruit needed replacements for the employees who decline transfers in favor of early retirement.

It will also be too late for the Panama Canal Organization to rework its complex reduction-in-force actions to retain employees scheduled for termination by placing them in the positions vacated at the last minute by the retiring employees. Additionally, in rare instances, employees in hard-to-fill positions for which U.S. recruitment is essential and who had received a notification of separation, may have already accepted an offer in the United States, leaving no qualified applicants available locally to fill last-minute vacancies created by retiring employees. This will cause disruptions in fulfilling our mission due to understaffing and to the time required to recruit replacements from the United States. Moreover, this situation would have an inequitable effect on those former employees who might not have been otherwise terminated and who are subsequently rehired by the Commission, in that it would appear they would not be eligible for grandfathered pay or early retirement benefits.

If there were to be no implementing legislation by October 1, when the treaty goes into effect, the transfer of approximately 3,000 employees to DOD agencies will be effectively prevented because those agencies will not be authorized to conduct the trans-



ferred functions or to pay the transferred employees out of appropriated funds. This will result in the transferred employees being left on the rolls of the organization, although the agency would be precluded by the treaty from performing these functions. The questions would then arise as to whether there is authority to pay such individuals. Further, these employees could not be separated without appropriate advance notice under reduction-in-force procedures. This would take an additional 60 to 90 days. It would also result in many reduction-in-force actions taken against other employees effective October 1 being incorrect because the bumping patterns would have improperly excluded the employees who were transferred. This would probably result in an inability to effect separation on October 1 as scheduled until the entire reduction-in-force is reworked to include the excluded employees in order to effect proper displacements. Moreover, new employees could not be hired under Panama social security in accordance with the terms of the agreements in implementation of the treaty because present law, which would continue in effect, provides that all permanent employees must be covered under the U.S. civil service retirement system.

At this point I would like to give the committee some background. The formal planning sessions between Panama Canal agencies and the Government of Panama began in early 1978. In the summer of that year, specific guidelines were developed for the formalization of the binational working group which is generally considered to be the predecessor to the coordinating committee called for by the treaty documents.

Joint working subcommittees, whose membership is made up of representatives from our two countries, were also established. Subjects being addressed by the subcommittees range from operational transfers such as the ports and railroad to areas of employee and community interest, including personnel, housing, social security, utilities, the environment, and police and fire protection.

Our initial subcommittee goals were to familiarize the members with the provisions of the treaty and related documents and to formulate specific objectives, the accomplishment of which would be responsive to treaty requirements. Individual subcommittee objectives were approved by the binational working group during meetings held in September and October of last year.

In the early weeks of subcommittee work, Panamanian Government officials, Panamanian subcommittee members, and their supporting advisers were afforded orientation briefings and filed inspections to acquaint them with Panama Canal facilities and areas in the Canal Zone.

Detailed listings of equipment and personnel presently employed in certain canal operations have also been provided to Panamanian subcommittee members for their use in determining internal Government of Panama resource requirements.

At the present time, the joint subcommittees are completing their first planning phase, which includes the finalization of a schedule for the accomplishment of actions necessary for treaty implementation. Upon completion of staff review of the planning documents by the canal organization, the U.S. Southern Command



and the U.S. Embassy in Panama, the plans will be submitted to the binational working group for final approval.

Discussions in the joint working subcommittees and the binational working group are being conducted in a spirit of cooperation with representatives of both Governments working in common to achieve the objectives set forth in the treaty. The planning effort we are currently involved in is an extremely complex and demanding endeavor. I can assure you, however, that the desire for successful accomplishment of this task is equally strong on both sides.

Probably the most complicated area in our planning involves the railroad and the Ports of Balboa and Cristobal which are scheduled for transfer to Panama upon entry into force.

While Panama has stated repeatedly that it will assume operational responsibility for the ports and railroad on October 1, it has also indicated in recent weeks that it would like the Panama Canal Commission to assign certain of its employees on a temporary basis to work for that government and to have the Commission continue to perform certain supportive functions on a reimbursable basis.

As to whether the Commission will be able to assist Panama in running those operations that are turned over to that country pursuant to the treaty, the answer appears to be a qualified yes. The Panama Canal Commission's fiscal year 1980 budget is based on the proposition that, effective October 1, Panama will perform those functions transferred to it by the treaty documents.

There are, however, provisions in the treaty which would permit the Commission either to assign its employees to assist Panama in the operation of those activities or to continue to perform them itself until such time as Panama can take them over.

Availing itself of those provisions, Panama has now stated that it desires assistance and accordingly appropriate revisions will have to be made to the budget to reflect the additional resources that will be required.

As I have indicated, Panama will reimburse the Commission for any assistance provided by that agency. We have informed the Government of Panama that any further requirements it may have must be made known to us in the very near future if the Commission is to have the resources to provide such support on October 1, 1979.

In conclusion, I would like to reiterate the pressing need for timely enactment of the treaty legislation, especially those portions which deal with canal employees. As I have said, these provisions are foremost in the minds of members of our work force. Because they are so important to our employees upon whom the continued, efficient operation of the waterway depends, they are also important to the agency.

My own personal view is that the employee provisions of the implementing legislation—to a greater extent than the financial, organizational, and other parts of the law—will determine whether or not the canal will continue to function in the same exceptional manner that has characterized its operation since 1914.

Mr. Chairman, that concludes my opening statement. I will now attempt to answer any questions which you or other members of the committee may have.

The CHAIRMAN. Governor, thank you very much for your very comprehensive, excellent testimony. I have no questions. I recognize you as an authority on the treaty, one who has spent a great deal of time in this effort, and one who has, in my judgment, dedicated himself to fairness and equality.

I want very much that the lines of communication between your office and this committee remain open throughout the proceedings and the months ahead. We want very much to benefit from your observations as we go through the legislative process. You are onsite and in many instances in a far better position to advise than others might be.

So the committee will appreciate benefiting from your views. I would hope that you would not ever be reluctant to pick up the phone, and make us aware of your observations when there is something that you think we are doing wrong or there is some shortcoming that you observe. Please make us aware of that.

Beyond that, I again commend you for your excellent presentation and your obvious dedication to fairness and certainly your task is a herculean one. I believe it is incumbent upon Congress to assist you in fulfilling that responsibility.

Mr. Derwinski?

Mr. DERWINSKI. One question, Governor: The special immigration section, do you have any idea, any ball park guess, as to how many people might avail themselves of that provision?

Governor PARFITT. We have no indication whatsoever as to how many might avail themselves of that provision. We have made some very rough estimate as to the potential exposure. I think the largest number computed has been to the extent of about 47,000 people, including employees and dependents, if all were to exercise such an option, which is very unlikely, I might add.

Mr. DERWINSKI. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Wilson?

Mr. WILSON. I have no questions, Mr. Chairman.

The CHAIRMAN. Mr. Taylor?

Mr. TAYLOR. I have no questions.

The CHAIRMAN. Mrs. Schroeder?

Mrs. SCHROEDER. On the immigration issue, are there provisions included to give the workers preferential rights to civil service jobs in the United States?

Governor PARFITT. There are none.

Mrs. SCHROEDER. So it would be a matter of sheer immigration?

Governor PARFITT. That is correct.

Mrs. SCHROEDER. Could you tell me in the RIF how many people that are female would be affected by the RIF, their percentage in the work force and the percentage in the RIF?

Governor PARFITT. I do not have such figures available to me, but I will be glad to provide them for the record.

Mrs. SCHROEDER. Are there any women above GS-13 in the Canal Zone?

Governor PARFITT. Again, we have several 13's, but I am trying to seek in my mind as to whether there are any 14's. We have in the past some who were 14's or equivalent, particularly in the



schooling profession, but again I would like to provide you specifics for the record.

Mrs. SCHROEDER. Are there any women in the Board of Directors of the Panama Canal Company?

Governor PARFITT. Yes, there are.

Mrs. SCHROEDER. How many?

Governor PARFITT. There are two.

Mrs. SCHROEDER. I have some other questions that I would like to submit to the Governor for the record that are a little more lengthy. Basically they concern the difference between this legislation and title VII of the Civil Service Reform Act. We really need some guidance as to why there were changes made in this legislation from title VII in particular with regard to dues checkoff and different issues such as that.

But I will submit the rest, if that is OK, to help us with our hearings when we do them in Washington.

Governor PARFITT. I will be happy to respond.

The CHAIRMAN. Thank you.

Mr. CORCORAN?

Mr. CORCORAN. Governor, if we were to take a referendum of the employees, both U.S. citizens and non-U.S. citizens who work for the Canal Company, what do you think would be their judgment of the Panama Canal Treaty itself?

Governor PARFITT. I hate to revert to that speculation, but to be responsive to your question, I feel that they would be opposed to the treaty if that were an option, which is not an option today.

Mr. CORCORAN. In your judgment, is that one of the reasons that the package before us is pretty generous concerning early retirement and in other respects?

Governor PARFITT. No, I don't think so. I think the package was developed based on what was considered to be fair, reasonable, under the circumstances, and in the best interest of continued management of the waterway.

Mr. CORCORAN. Another question relates to item 9 in your testimony. You talk about a future cost-of-living adjustment that will have to go into effect.

Could you elaborate on how much money might be involved in offsetting the loss of commissary and other privileges?

Governor PARFITT. It would be speculative at this point to try to put a fixed sum of money on that question, in answer to that question. We have taken some very tentative samples in the market-basket technique to determine the difference in cost between buying in a military commissary as opposed to buying in the Panamanian economy.

Tentative conclusions would indicate that it would have to be an increase in the order of magnitude of about 15 percent today in the payroll in order to offset that. That is quite speculative. That is a general estimate and we would have to project ourselves forward 5 years from now.

Mr. CORCORAN. What is the payroll cost now?

Governor PARFITT. The payroll and total employee costs are around \$248 million. But that is not all base wage. That is contributions to insurance and that sort of thing. But the payroll is in



the order of magnitude of \$248 million, closer to \$200 million base wage.

Mr. CORCORAN. Thank you.

The CHAIRMAN. Thank you.

Mrs. Spellman?

Mrs. SPELLMAN. Just a couple of questions now and then I have a great many that I would like to submit to you. Let me just check on something you just said.

There would be a 40 percent differential?

Governor PARFITT. No. If we were to take today's situation, and this is a very rough calculation, we would have to increase the base wages of individual employees by 15 percent to offset the difference between buying at the price they pay for goods in the commissaries of the military, the PX's, and using postal facilities, as opposed to using such facilities in Panama.

I might add that the number I gave to Mr. Corcoran does not relate to the 15 percent. We are only talking about the U.S. citizens who have this benefit and would lose the benefit in 5 years. So it is a portion of that figure and less than half.

Mrs. SPELLMAN. But there would be 25 percent on top of that 15 percent; is that what I understand or am I misunderstanding that?

Governor PARFITT. No. If we were to apply it today and tell our employees that they were to buy in Panama, the individual employee, U.S. citizen, would be afforded a base salary, what he gets now, plus a 15 percent tropical differential, plus an equivalent 15 percent which would go to the cost-of-living differential.

So there would be two 15 percent increments added to the base salary under today's conditions.

Mrs. SPELLMAN. To follow up on Mrs. Schroeder's question on the immigration, what would be the status of those employees? Would they have civil service status with bumping rights?

Governor PARFITT. These people would be off the rolls of the Federal Government if they were to accept immigration into the U.S. Government. There would be no obligation for employment. They may be retirees. In most cases they would be retirees, but they could also be just employees who severed relations with the Federal Government and decided to immigrate to the United States, but they would no longer be connected with Federal service.

Mrs. SPELLMAN. Then just one more, and as I said, the others will be coming to you: I just somehow have a feeling we are being somewhat schizophrenic here. We are providing a 2½ percent multiplication factor on retirement in order to keep people in their jobs, asking them to continue. That I can understand.

On the other hand, we are providing an extremely liberal, far more liberal than anything we have had in the States, retirement program which says it would be very nice for you to go.

Now I can understand that in some areas we might want to encourage people to retire so that there will be no unemployment and that maybe in other areas it is much more difficult to find employees who can meet the criteria and we want them to stay.

But isn't there a way of handling that so that we are not saying both things to all people at the same time?

Governor PARFITT. Well, I think what we are saying is that the situation that has evolved here requires us to afford the employees

the right of retirement. That right is there, in my judgment, regardless of the implementing legislation. So he has the right.

We are saying that because of the treaty mandate to seek earlier or more liberal calculation of and entitlement to, that we should afford that right to individuals who have not quite reached the normal retirement criteria.

So to me there is no inconsistency there. Instead of 50 and 20, it is 48 and 18, slightly liberalized criteria. The portion of the bill that has to do with retaining people is to try to convince the employee not to exercise the right on day 1 because if that were to happen in the technical skills, we would not have the people to operate the canal.

So we are trying to tell them that that right need not be exercised on day 1 and you can stay here and during the course of the treaty exercise it. To me that is consistent with fairness to the employee, reasonableness under the circumstances, and the best interests of the organization in maintaining a work force throughout the life of the treaty, throughout a period when we must reduce the numbers of U.S. citizens in those skill areas as mandated by the treaty.

Mrs. SPELLMAN. I must say, Governor, I am not fully convinced yet, although you are most convincing. If indeed we should go in this direction—then I think I should tell you where I am coming from. I am very concerned that the Federal employees' retirement funds be solvent. I am very concerned that we not get into the position that we are in with social security:

As we have more and more early outs, we are dipping into those funds and we have a greater unfunded liability. I am afraid that not too long down the road somebody is going to take a look at what appears to be an increasing unfunded liability and say, well, this retirement fund is going to the dogs and let's just merge it with social security. I am opposed to that.

So as we are talking now about liberalizing the benefits or the early-out provisions in a way that, to my knowledge, hasn't been done before, and when we say that this comes about because of the treaty, in your opinion where should the money for that come from? Should it come from the Federal employee retirement fund which they have been contributing into at a pretty high rate or should this come from general funds which would be considered funding for implementing the treaty?

Governor PARFITT. In my judgment the latter seems to be consistent with the administration views on this type of cost burden.

Mrs. SPELLMAN. Thank you, sir.

The CHAIRMAN. Thank you, Mrs. Spellman.

Governor, I would not ask for the answer to this question at this point, but may I ask if you have the in-house capacity to provide this committee with an estimate of the cost associated with implementation of title III? I would not expect that you do that right now but, would appreciate it, if you could provide the committee with that information, within 2 weeks.

The other part of the question is do you have the in-house capacity as opposed to perhaps shifting that question to OMB?

Governor PARFITT. It seems to me, sir, that the biggest cost drive in this area is the early retirement. The Office of Personnel Man-



agement probably should provide that figure. We have asked them to develop it. We have seen some tentative figures that they have given to individuals who testified before the Senate hearings.

The order of magnitude figures being used at that time, referring now to the cost of early retirement, were somewhere between \$8 and \$9 million per year for 30 years. So we have asked for an update of those figures. It is my understanding that the Office of Personnel Management will be providing such.

The CHAIRMAN. Mr. Taylor?

Mr. TAYLOR. I would like to ask one question.

Governor, I wonder if you could give the committee any idea as to about how many employees at the present time would qualify under the 48-18 criteria?

Governor PARFITT. I will give you the answer, and I would like to check it for the record, but it seems to me it is about 1,500.

Mr. TAYLOR. That is a substantial number are already eligible. That would pose a threat if they did decide that they were going to exercise that prerogative.

Governor PARFITT. The point I would make is that there is not a great difference in numbers between those eligible under the 48-18 and those eligible under the 50-20. That is the point I make. There is an enrichment, but in terms of impact on the organization, it is not greatly different. That brings into force and into play the requirement to provide incentive to stay under either system. That is important from a management standpoint.

The CHAIRMAN. Mr. Wilson?

Mr. WILSON. Mr. Chairman, just one question.

In response to Mrs. Spellman's question about where the money would come from to keep a balance in the retirement funds, and without having to use up the funds that the employees have in their own retirement program, you indicated that you felt that any necessary funding should come from the general Treasury rather than to take it from the retirement funds themselves.

Doesn't that fly in opposition to what the President told us that there would be no cost to the taxpayers as a result of the treaty or the implementing legislation?

Governor PARFITT. I think there has been some misunderstanding on the administration's position with regard to cost of the treaty. The statements made, to my understanding, always have been that they referred to the cost of payments to Panama which were to be borne by tolls received through the Commission. There are indeed many costs of the treaty which will be borne by the U.S. taxpayer.

Mr. WILSON. Well, I am sure there are going to be, but I don't know that that was honestly presented to the American public at the time that the treaty was presented to them.

I think the impression that the taxpayer was given was that there would not be any unusual costs or any additional costs to the taxpayer. But obviously there are going to be many.

Governor PARFITT. Certainly there is a prevalent impression among the American population that that is the case, but in fact there are costs of the treaty. The point I am making is that my understanding of the comments with regard to no cost has been related to the payments to Panama which are required by the



treaty. Those would come from revenues earned by the Commission through tolls and receipts.

The CHAIRMAN. Are there any further questions? If not, on behalf of the committee, Governor, our deep appreciation for your appearance and for your input.

Thank you very much.

Governor PARFITT. Thank you, Mr. Chairman.

Mrs. SPELLMAN. Mr. Chairman, may I point out that it is most unusual that all of your employees are applauding you. I think that speaks very well for you.

The CHAIRMAN. In line with what the gentlelady has said, I think that provides a catalyst for the committee to applaud the Governor.

Our next witness is Mr. Shannon Wall as president of the National Maritime Union.

President Wall, we are delighted to welcome you here this morning. We look forward to your testimony. If, for the purpose of the record, you will be good enough to introduce your associates.

**STATEMENT OF SHANNON WALL, PRESIDENT, NATIONAL MARITIME UNION, ACCOMPANIED BY CAPT. NORMAN WERNER, PRESIDENT, I.O.M.M. & P., PILOT MEMBERSHIP GROUP, PANAMA CANAL BRANCH; CAPT. S. V. FAULKNER, BRANCH AGENT, I.O.M.M. & P., ATLANTIC AND GULF MEMBERSHIP GROUP, PANAMA CANAL AND CARIBBEAN BRANCH; ALFRED GRAHAM, PRESIDENT OF THE CENTRAL LABOR UNION AND METAL TRADES COUNCIL; FRANK HAMILTON, LABOR ATTORNEY; RENE LIOEANJIE, VICE PRESIDENT, AFL-CIO MARITIME COMMITTEE, AND TALMAGE SIMPKINS, EXECUTIVE DIRECTOR, MARITIME COMMITTEE, AFL-CIO**

Mr. WALL. Yes. Thank you, Mr. Chairman.

Joining me this morning, or jointly appearing with me, are Capt. Norman Werner, president of the Panama Canal Pilots Branch; Capt. Sidney Faulkner, president of the Canal and Caribbean Branch of the International Organization of Masters, Mates and Pilots; Alfred Graham, president, Central Labor Union and Metal Trades Council, and Frank Hamilton, a labor attorney.

Also appearing with me are Rene Lioeanjie, vice president, and Tal Simpkins, executive director, of the AFL-CIO Maritime Committee.

The CHAIRMAN. To each of you we issue a warm welcome. We are delighted to have you participate in these proceedings this morning.

Mr. WALL. We appreciate this opportunity to appear and testify on behalf of your members who are employed in all phases of the activities in the Panama Canal Zone. More specifically, the unions in this group represent the employees that are directly involved in the movement of the ships through the canal.

We will be asking the other congressional committees that have jurisdiction over other parts of this implementing legislation to stipulate that there be a representative from the labor movement and the maritime industry on all boards and commissions that are established to run the canal.

We shall also make certain recommendations relating to the tolls so that they will not adversely affect our foreign commerce and our American-flag merchant marine.

We will, however, limit our presentation today to what we understand to be the subject of these hearings—title III, employee and postal matters.

I will make an introductory background statement. Captain Werner will speak to the early retirement section of the bill. Captain Faulkner will present a paper, and then Frank Hamilton will present the details of our labor-management relations paper. The CLU-MTC will speak to the Railroad Retirement Act.

We have, since the treaty negotiations began some 13 years ago, avoided taking a position on the treaty. Our position has continually been to do what we can as labor unions to look out for our members and to leave the treaty negotiations to those experts in that field.

Therefore, the following comments are not intended to reflect on the treaty but to the labor guarantees for the protection of all Canal Zone employees.

Basically, the material aspects of the treaty have been settled. We ask that you urge the Congress to give the same consideration to the human aspects.

We have been involved for a number of years and have testified many times before Congress on behalf of the workers in the Panama Canal Zone. I say this because much of what we will be saying here we have said before.

In this presentation I shall concentrate on the one section of the bill that we consider the most important and which as it is currently written gives us the most concern. In addition to our comments here, we will with your permission, submit additional comments on other sections of the bill.

The CHAIRMAN. Without objection it is so ordered.

Mr. WALL. Section 303 of H.R. 1716 gives the Panama Canal Commission the authority to establish a wage and employment system and to establish a form of collective bargaining.

In 1976, as a part of a memorandum of understanding between the Canal Zone Government and the employees, the following was agreed to:

To initiate action immediately to formulate a labor-management committee to commence a study with full participation of unions of all ramifications of application of E.O. 11491, as amended, or other mutually acceptable form of collective bargaining with employees of the Panama Canal Company and Canal Zone Government.

It was this general agreement that initiated many meetings between the labor unions in the zone that led to a general consensus of what we believe is necessary to protect the interest of the workers in the Panama Canal Area. We have also had continuing meetings with the Government authorities on this subject. Frank Hamilton will explain this in detail later in our testimony.

We believe that there are forces at work that would reestablish a dual pay system for future employees that will be hired after the new mechanism is set up to run the canal. The DOD people that we have met with, before and after the treaty, have continually emphasized to us that the employees who work for the Canal Zone



Company/Government at the time of the transfer to the Commission will not make less wages. This implies to us that the new hires will make something less. This will surely happen if the discriminatory language of section 7103 of title VII of the Civil Service Reform Act of 1978 is allowed to apply.

If this happens, as we believe it will, we will be back to a situation of where two workers working side by side doing the same job will receive different wages.

We further believe that this Panama Canal employment system will effectively deny the application of the U.S. Federal minimum wage that the unions and the Congress worked so hard to have applied here.

We have continuously worked for an employment system that would apply equally to all workers in all Federal agencies in the Panama Canal area. This means to us equality of treatment regardless of the citizenship of those presently employed and those to be employed.

There are many justifications for this. When the U.S. Government entered the scene in this part of the world in 1903, there existed a completely different set of conditions than those that exist today.

In order to provide incentives for workers to brave the then-known health hazards of this area, U.S. officials from the very outset had to plan to provide for the total needs of its army of imported workers—U.S. and tropical labor alike.

Armed with a treaty giving it wide powers, it is not surprising that the Canal Commission set up a miniature U.S. city government almost overnight in the zone with its own health department and hospitals, post offices, police force, schools, bakeries, storehouses, commissaries, clubhouses, et cetera. Food was imported from the United States to maintain the essential needs of this work force.

Thus, from the very outset there was established on the Canal Zone a basically North American and U.S. cost-of-living economy throughout the zone and the terminal cities of the republic.

It is to be noted that all employees, both United States and non-United States, were granted the right to purchase on the zone, regardless of residence, at identical prices. This privilege was taken away in 1955 for those non-U.S. citizens living off the zone.

As a consequence of this action, we would like to point out the cost differentials that have and do exist. In 1976, a can of corned beef which sold for \$1.65 in a Canal Zone commissary, 99 cents in Detroit, and \$1.16 in Brooklyn, N.Y., sold in Panama City for \$1.90. These relative differences exist also today. Premium gasoline sells throughout the Republic of Panama for more than \$1.10 per gallon. This same premium gas sells for 70 cents in the zone.

It has been well known for the past 50 years at least that the American dollar and the Panamanian balboa are used interchangeably on the entire isthmian economic scene. The purchasing power or value of both is identical. Anyone familiar with the facts will agree that this interchange of currencies is not true of Costa Rica, Haiti, Colombia, San Salvador, Barbados, Jamaica, Trinidad, and many others of the surrounding countries.



It is vitally important to point out here that even though some non-U.S. citizens who work on the zone were drawn originally from neighboring Central American countries and the West Indies, the vast majority of non-U.S. citizen employees on the zone are Panamanian nationals.

It is important to add here also that none of these employees live or fulfill their day-to-day needs in these so-called surrounding countries, where the cost of living is substantially lower than that prevailing on the Isthmus of Panama.

By the way, the cost of living in the Republic of Panama is the 24th highest in the world. They, therefore, must reside on the zone or in the nearby cities of the Republic of Panama and must purchase all their basic commodities and household and personal goods in a predominantly North American economy at North American prices.

Canal Zone labor unions have long been of the opinion that the coverage of Canal Zone workers under the U.S. minimum wage law in 1966 effectively underscored the inadequacy and indefensibility of any continued adherence to a dual wage philosophy in the zone.

At the present time the Governor of the canal has the basic authority to set the wages for the Canal Company/Government employees and he does. Through the Civilian Personnel Policy Coordinating Board, these wages are applied to all Federal and nonappropriated fund employees in the zone.

As a result, the wages at best can be described as a hodge-podge with very little rhyme or reason and we will not attempt to explain them in detail.

The nonmanual grades 6 and above are based on the general service schedule from the States. There are, however, exceptions to this. The grades 1 through 5 wages are set on a Canal Zone NM wage base. The manual grades MG-10 and above are set in accordance with the Wage Board rates in the United States. There are also exceptions to this. The grades below 10 are set on the Canal Zone MG wage base.

This Canal Zone wage base is a carryover from the time when the gold and silver pay systems were in effect. It was modified by the Treaty of Mutual Understanding and Cooperation and the application of the U.S. Federal minimum wage in 1966. Other than these two inputs, we do not have the slightest idea of how these local NM and MG wages are set.

The implementing legislation should establish by law and not by administrative fiat a coherent unified pay system providing equal pay for equal work in all areas for both present and future employees, citizen and noncitizen.

We ask that section 325, Early Retirement Eligibility, and section 326, Early Retirement Computation, be amended so that they will cover those Canal Zone DOD employees who are involuntarily separated or scheduled to be separated as a direct or indirect result of implementation of the treaty.

Several thousand Panama Canal Company/Government employees have already received notice of transfer of their units to DOD control. Subsequently, RIF actions will be initiated by DOD, after combined Company/Government and armed services retention rosters are compiled for use in said RIF actions.

It is our understanding from conversations with the Governor yesterday that this possibly has been taken care of, but our draft preceded our conversations with the Governor so we have left it in to make our point clear.

It is our contention that RIF actions resulting therefrom are a direct result of the treaty and should entitle those affected to the early retirement provisions of these subsections. Former Panama Canal/Canal Zone Government employees transferred to DOD should also be entitled to continuing eligibility for subsequent retirement inasmuch as their transfer was necessitated by treaty actions.

We will submit at a later date recommendations for your consideration that will extend to the Army and Air Force exchange personnel the same retirement options extended to the appropriated fund employees.

I will conclude my portion of our remarks by stating our pleasure with the inclusion of another group of nonappropriated fund employees—those employed in the messes and the officers and noncommissioned officers clubs—under the retirement benefits of section 329 of this bill.

While this concludes my remarks, we ask that you withhold any questions you may have until Captain Werner, Captain Faulkner, the CLU-MTC and Mr. Hamilton have finished with their remarks. We suggest this in the interest of saving time, as their remarks may clear up certain of your questions.

Thank you.

The CHAIRMAN. Thank you, President Wall.

Our next witness is Capt. Norman Werner, president of the International Organization of Masters, Mates & Pilots. Captain Werner?

#### STATEMENT OF CAPT. NORMAN WERNER

Captain WERNER. Good morning, Mr. Chairman and ladies and gentlemen on the Post Office and Civil Service Committee. We welcome you to the Panama Canal. We hope you find our isthmus as pleasing as our tropical climate.

It is appropriate that I address the subject of the liberalized early retirement feature included in the proposed implementing legislation of the Panama Canal Treaty.

As you may be aware, the inclusion of an open-ended liberalized retirement benefit as a retention incentive for midcareer employees is the product of an agreement made in good faith between the President of the United States and a past president of our pilots association in August 1977.

Our part of the bargain was that the canal pilots, who function in autonomous control of the navigation of all vessels that transit the Panama Canal, would not oppose President Carter's treaty. We kept our end of that bargain.

Although the precision skill demanded to pilot large vessels through the Panama Canal is unequaled anywhere else in the maritime world, our maximum earnings as senior pilots are as much as 50-percent lower than professional port pilots elsewhere.

Additionally, 9½ years' experience as a pilot on the canal is the minimum requirement to qualify as a control pilot of the largest



vessels that use the canal. The same length of time is necessary to reach the senior pilot pay level.

It should be clear that the major retention incentive for the three-fourths of the pilot force that would not be eligible to retire under the reduction in force presently offered is the liberalized early retirement opportunity available for the life of the treaty.

Many of the midcareer pilots who would continue providing their service to the Panama Canal Agency if the early retirement benefit is included in the implementing legislation are senior pilots such as myself. The loss of experienced pilots who choose to leave under the RIF and resignations of midcareer pilots, if the liberalized retirement benefit were not included in the legislation, would create an impossible situation. It should be obvious that these people could not be replaced by new hires.

In conclusion, I reiterate that the major retention incentive for midcareer pilots presently employed by the Panama Canal Company is the early retirement option. We urge all those interested in a smooth canal operation during the transition period to support the early retirement legislation.

The CHAIRMAN. Thank you, Captain Werner.  
Captain Faulkner?

#### STATEMENT OF CAPT. S. V. FAULKNER

Captain FAULKNER. Mr. Chairman and ladies and gentlemen, like the gentlemen who have just spoken to you, we are involved in the operation of the canal. The information and positions they have presented to you have our complete concurrence and support.

I represent the Panama Canal and Caribbean Branch of the International Organization of Masters, Mates and Pilots. We are: the boarding officers who clear arriving transit vessels, the admeasurers who determine the transit tolls, the tugboat captains who assist transiting vessels, the maritime traffic controllers who coordinate all transit operations, and the apprentices who are training to become tugboat masters and later to possibly become canal pilots.

We are professionals, not professional labor leaders but professional craftsmen of the Panama Canal, and we take pride in our jobs.

Aside from the performance of our daily jobs, we are also tasked with training the men and women who will relieve us by the end of the century. In some instances, this transition training has been going on for over 10 years.

We endorse the spirit of the treaties. However, in all common-sense and fairness, we cannot support conditions where our eventual peers will work under different wages and work rules. This is divisive and certainly not conducive to harmonious labor relations. It destroys belonging and is disruptive to any community of interest. Without this, good faith, morale and pride in performance are lost.

Responsible Panama Canal labor or labor anywhere must demand of itself strict professional standards, not only in performance itself and instruction of the craft but in the solidarity of representation. Federal legislation and regulation have charged



organized labor with the responsibility of representing, supporting and defending our peers, whether they are union members or not.

Whatever direction the regulation of Panama Canal labor relations takes, we feel all employees in designated bargaining units must be required to contribute to the cost of representing the employee in those units by paying the respective organizations an amount equal to the dues, fees and assessments which the regular members of such organizations pay.

The CHAIRMAN. Thank you, Captain Faulkner.

Mr. Hamilton?

#### STATEMENT OF FRANK HAMILTON

Mr. HAMILTON. Mr. Chairman and ladies and gentlemen: May it please the committee, you have a written presentation from me which I would like to correct in the fourth line on page 3, the public law referenced S. 95-454 instead of 114.

Instead of taking time to read that, I would like to talk with you a little bit about the other document which you have been furnished. This is entitled, "A Revised Joint Panama Canal Commission-Department of Defense Labor Relations Policy."

In the presentation you will note this is referred to as option 6. The explanation of that terminology is in the written presentation.

First of all, I am a labor lawyer. I have and profess no expertise in the area of the treaty. However, as I have been working with the labor organizations which represent the employees here in the canal, I have become impressed with a number of things.

First of all, that is the diversity of the problems of representation which exist here.

Second of all, with the complexity of the means in which fair and adequate compensation systems may be set.

Third, with the inadequacy of proceeding through a strictly administrative process to accomplish the desired results and means.

As an illustration of this last point, I think you will see that for more than a year we have been attempting to work out something in the way of a policy. While we draw closer together, we are still poles apart.

So that the primary thing which I would urge the committee is that it consider that whatever the procedure for labor relations policy for the employees here, that it be set by statute rather than by rule and regulation.

Now in the formulation of the statute I would suggest that the option 6 be carefully considered, not as in legislative form but as the bedrock from which legislation can be drafted.

The genesis of option 6 was to take the proposals from the Department, the various Executive orders relating to bargaining in the Federal Government, the various public employee relations acts of the States, and to examine them in the context of the problems which exist here.

I sincerely state, and bear in mind I represent public employee unions in the States, I sincerely believe that in the situation here, the political and operational situation, the closer you can get to full-scale bargaining for the employees here, the better the interests of the canal, the better the interests of the United States, the better the interests of all concerned will be served.

Now, in the option 6 you will find there are procedures to resolve questions of representation. There are procedures to require standards for the organizations to represent employees. There is the duty of nondiscriminatory representation. You will find there are unfair labor practice provisions and procedures for the resolution of those.

Now in the Federal sector this has been to a limited extent recognized by the amendments to the Civil Service Act. However, of course, this bill, H.R. 1716, says that the amended, the revised Civil Service Reform Act, will not apply to the Canal Zone, except for certain sections.

Now the point that I was making there is that the revised Civil Service Act now has established an agency or procedure for the handling, not by the affected agency but by somebody else, of the problems of enforcement of the employee rights to bargain and of the labor organization duty to fairly represent. This is what is needed.

We urge sincerely that every consideration possible be given toward the establishment by Congress of the guides and the rules under which employees and their families here in the canal will be protected.

Now one final comment. I think Mr. Wall made reference to it but I want to specifically direct your attention to the provisions of section 7103 of the Civil Service Reform Act which provides in the definitional section that an employee means an individual, and then it describes various things, but does not include an alien or noncitizen of the United States who occupies a position outside the United States. That cannot apply to the canal.

Here we are committed as a Government to the employment and to the increasing employment of aliens. If we are going to as a nation be fair, if we are going to live up to our treaty obligations, if we are going to have harmonious employee relations and effective operation of the canal, then we will eliminate any unrest which arises by treating differently those employees who are not citizens of the United States.

Thank you.

[The prepared statement follows:]

PREPARED STATEMENT OF FRANK E. HAMILTON, JR., HAMILTON & DOUGLAS

Ladies and gentlemen, may it please the Committee, my name is Frank E. Hamilton, Jr. I am an attorney with offices at Tampa, Fla., and I specialize in the field of labor relations, representing labor organizations. For the past several months I have been assisting the various labor organizations which represent employees in the Canal Zone in their efforts in the light of the mandates of the Treaty to come up with a unified labor relations policy providing procedures for the negotiation of collective bargaining agreements and for their enforcement.

In order that the committee may fully appreciate the problem, I would like first to take you back in time and trace in a most sketchy fashion the history of labor relations in the Canal Zone and the events which bring us to where we are today.

As you know, in 1962 the late President John Kennedy issued Executive Order No. 10988 which permitted a very limited type of recognition and negotiation between Federal agencies and organizations representing Federal employees. Executive Order No. 10988 provided for formal recognition without exclusive recognition and permitted consultation as distinguished from collective bargaining. Executive Order No. 10988 has been applied to groupings of employees in the Canal Zone, and it the system under which some 22, or thereabouts, labor organizations attempt to provide some measure of representation for their membership.



In 1969 Executive Order No. 11491 was issued and it provided for exclusive recognition and a substantial measure of collective bargaining. It contained provisions permitting an agency or department to opt out from under its coverage on the basis of national security; and this option was exercised by the Panama Canal Government. Executive Order No. 11491 has not been applied to Canal Zone employees.

This disparity in treatment as compared with other employees of the Federal Government, coupled with the geographic separation and a variety of other factors, led to employee unrest which threatened to close the Canal. As a result, there was a memorandum of understanding issued by the Governor on March 20, 1976, which provided: "To initiate action immediately to formulate a labor-management committee to commence a study, with full participation of unions of all ramifications of application of E.O. 11491, as amended, or other mutually acceptable form of collective bargaining with employees of the Panama Canal Company and Canal Zone Government."

Following this, the employees organizations attempted to meet to formulate a mutually acceptable form of collective bargaining with employees of the Panama Canal Company and the Canal Zone Government. Then came the Treaty.

As you know, article X, section 9, of the Treaty provides:

"(a) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions."

"(b) Employee unions shall have the right to affiliate with international labor organizations."

Following this impetus, there were further meetings between the various labor organizations and representatives of the various departments, agencies, etc. From these meetings there was presented to the Canal Zone labor organizations on May 10, 1978, a document from the Civilian Personnel Policy Coordinating Board of the Canal Zone on "Proposed Consultation on Labor Options." The May 10, 1978, document contained five basic options. I will not bore you with the details of these five options. I will tell you that each of them was carefully and exhaustively considered by the various labor organizations representing employees of the Canal Zone; and the majority came up with a proposal which they labeled as "Option 6". Such was reviewed and refined, and through the auspices of the AFL-CIO, was presented as a consensus of proposals acceptable to the organizations representing Canal Zone employees.

Throughout the Federal Service a problem with Executive Order No. 11491 had been the absence of an independent agency to monitor and enforce the spirit of the Executive Order. In October of 1978, Public Law 95-454 was enacted (92 Stat. 1191) and title VII provided for Federal Service Labor-Management relations, among other things, creating "The Federal Labor Relations Authority." H.R. 1716 in title III, section 303, provides that the provisions of chapter 71 of title V of the United States Code (this is the part of the Civil Service Reform Bill dealing with labor-management and employee relations), will not apply to employees of the Commission but mandating: "In lieu thereof, the President shall establish a form of collective bargaining, applicable to the Commission's employees; into which is incorporated the substance of sections 7102, 7106, 7116, 7120, and 7131. The form of collective bargaining so established shall contain such other necessary provisions, and shall be administered, so as to provide the Commission's employees with the right to bargain collectively under the same conditions and with respect to the same subject matter that obtains where the right is exercised generally in the Federal service within the continental United States."

As related, "Option 6" has been furnished. After its receipt, there were further meetings between representatives of the affiliated unions and of the agencies to explain and discuss proposals which had been made. During the first week of January of 1979, there was then furnished a new document entitled "Joint Panama Canal Commission/Department of Defense Labor Relations Policy" which incorporated some provisions of the proposals in "Option 6", ignored others and proceeded in exactly the opposite direction with still others. The latest proposal was reviewed by the affected labor organizations in a meeting at the AFL-CIO offices in Washington on January 25; and I was asked to prepare for distribution a revised "Option 6" incorporating as much of "Joint Policy" as possible without doing violence to the concepts of "Option 6." The revised "Option 6" was hurriedly prepared and copies are available for distribution with this presentation.



The pressures of time are such that it has been impossible to get to you in written form the comments and explanations which I would like to furnish you as to the concepts of organization and content of what we have called "Option 6." Additionally, the pressures of time have prevented our redrafting "Option 6" in legislative form for inclusion in the legislation you are considering. But we strongly urge that such consideration be given. The reasons for this are varied. The history which I have detailed for you shows that for seventeen years employees of the Canal Zone have been limited to "formal recognition" and "consultation". They have been denied the expanded rights of other Federal employees under Executive Order No. 11491, and it is proposed that they be given less than the rest of the Federal Service is given, even under the Civil Service Reform Act. The problems of the employees are unique and are not paralleled elsewhere in the Federal Service. The political climate in which they will work is full of uncertainty. The history which I have outlined demonstrates that the best interests of the United States and of the employees charged with the successful operation of the Canal will best be served by clarifying and setting out in legislation the rights of employees to exercise their collective bargaining rights with full-scale collective bargaining.

REVISED JOINT PANAMA CANAL COMMISSION/DEPARTMENT  
OF DEFENSE LABOR RELATIONS POLICY

REVISED  
JOINT PANAMA CANAL COMMISSION/DEPARTMENT  
OF DEFENSE LABOR RELATIONS POLICY

PREAMBLE

WHEREAS the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and,

WHEREAS the well being of employees and efficient administration of government operations are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and,

WHEREAS, subject to applicable law and the paramount requirements of public service, effective labor-management relations requires a clear statement of the respective rights and obligations of employees, their labor organizations and their employer; and,

WHEREAS traditions of collective bargaining in the area and the provisions of applicable treaties, pacts, and status of force agreements make existing Executive Orders relating to collective bargaining inequitable and/or impracticable in the performance of work in the geographic area of Panama containing the Panama Canal so that special considerations to protect, preserve and conform to such traditions, treaties, pacts, and agreements are necessary and in the public interest as well as the interest of all concerned;

NOW, THEREFORE, by virtue of the authority vested in me by the President of the United States, I, the Secretary of the Army, hereby direct that the following policies shall govern officers of all Panama Canal Commission and DOD Agencies in all dealings with Panama Area federal employees and organizations representing such employees.

SECTION I. DEFINITIONS

"Board" - Panama Area Labor Relations Board

"PCAA" - Panama Canal Area agencies which consist of what is presently



called the Panama Canal Commission and Department of Defense (DOD) Agencies of the United States functioning in the Republic of Panama either collectively or any such commission or agency individually as applicable.

"Community of Interest" - Evidenced by (a) the similarity of relationship of skills; (b) distinctiveness of functions performed; (c) extent of integration of work processes; (d) commonality of working conditions; (e) place or places of work; (f) extent of employee interchange; (g) organizational structure; (h) governing personnel and administrative regulations; (i) locus of authority for personnel and labor relations program decisions; (j) common supervision; (k) pay systems; (l) tenure of employees; and, (m) hazards of employment; (n) physical qualifications; (o) educational qualifications; and (p) labor relations history.

"Conditions of Employment" - Includes, but is not limited to, such matters as working conditions and environment, wages, pay practices, work hours, and schedules overtime, work procedures, automation, safety, transfers, job classifications, details promotion procedures, seniority, assignments and re-assignments, reduction in force, job security, contracting out, use of military personnel, disciplinary actions and appeals, training, labor-management relationship, methods of adjusting grievances including final and binding arbitration, granting of leave, union security, travel and per diem, and such other matters as may be specified by agreement negotiated pursuant to this Agreement.

"Confidential Employee" - An employee who assists and acts in a confidential capacity to persons who formulate and effectuate management policies in the field of labor relations.

"Consult or Consultation" - The mutual obligation of PCAA and labor organizations representing employees of the PCAA to communicate orally or in writing for the purpose of presenting or obtaining views or advising of intended actions.

"Day" - A calendar day.

"Employee" - A civilian employee of an agency or non-appropriated fund instrumentality not including, for the purpose of exclusive recognition, a supervisor except in a unit as provided in Section 17 of this Policy.

"Employee Relations" - The relationship between the PCAA and its employees and their organization or, when used in the general sense, the relationship between management and employees or employee organizations.

"Employee Representation Unit" - A group of employees constituting an appropriate unit as provided in this Policy.

"Exclusive Representative" – The labor organization which has been certified herein by the Panama Area Labor Relations Board as the majority representative of the employees in an appropriate unit.

"Fact Finding" – Identification of the major issues in a particular dispute, review of the positions of the parties, and the investigation and reporting of the facts by one or more impartial fact-finders and the making of recommendations for settlement.

"Grievance" – Means any complaint by an employee or by a labor organization concerning any aspect of the employment relationship with the PCAA including any matters which are subject to final administrative review outside of the PCAA, as well as any complaint by an employee, labor organization, or the PCAA concerning the effect, interpretation, violation, misinterpretation, or claim of breach of a collective bargaining agreement, and any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation governing conditions of employment.

"Labor Organization" – A lawful organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which consists of management officials or supervisors, except as provided in Section 17 of this Policy.

"Management Official" – An employee having authority to make, or to influence effectively the making of, policy necessary to the agency or activity with respect to procedures or programs.

"Negotiations" – Performance by duly authorized representatives of management and duly authorized representatives of an exclusive representative of their mutual obligation to meet at reasonable times and to confer in good faith with respect to the terms and conditions of employment with a view towards reaching a collective bargaining agreement, including the continuing duty to so meet and confer and seek agreement as to the application of any such agreement to changed circumstances.

"Professional Employee" – a. Any employee engaged in the performance of work (1) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or



from training in the performance of routine mental, manual, or physical processes; (2) requiring the consistent exercise of discretion and judgment in its performance; (3) which is predominately intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work); and (4) which is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; or

b. Any employee who has completed the courses of specialized intellectual instruction and study described in subparagraph a. of this paragraph, and is performing related work under the direction or guidance of a professional person to qualify the employee to become a professional employee as defined in subparagraph a. of this paragraph.

"Regulation" - Panama Canal Personnel Manual, C.F.R. 35 or Federal Personnel Manual, Department of Defense regulations or regulations of a DOD agency, in effect at the time of adoption of this policy, and amendments or new regulations adopted in accordance with this policy.

"Qualified Labor Organization" - Any organization which includes employees of the PCAA which has as one of its primary purposes representing such employees in their relations with the PCAA and which has complied with the conditions specified in Section 4.

"Supervisory Employee" - Any employee having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment, except that, with respect to any unit as provided in Section 17, or which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

## SECTION 2. EMPLOYEE RIGHTS

a. Each employee has the right, freely, and without fear of penalty or reprisal, to form, join, and assist a labor organization, or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this policy, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the agencies, the Congress, or other appropriate

authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section, and that no interference, restraint, coercion, or discrimination is practiced within the agency to encourage or discourage membership.

b. Paragraph a of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in Section 17 of this Policy, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

### SECTION 3. EMPLOYER RIGHTS

It is the right of the PCAA to determine the mission of each of its departments, to set standards of services to be offered, and to exercise control over its organization and operations. It is also the right of the PCAA to direct its employees to take disciplinary action for proper cause; provided, however, that if the exercise of such rights causes a discontinuance or curtailment of jobs, it shall be the obligation of the PCAA to ensure that all employees affected thereby are protected against all loss resulting therefrom; and provided, that the exercise of such rights shall not preclude employees or their representatives from bargaining or raising grievances about the practical impact that decisions on the above matters have on terms and conditions of employment.

The PCAA shall not make or apply rules or regulations which are in conflict with any agreement negotiated under this Policy.

### SECTION 4. QUALIFICATION OF LABOR ORGANIZATIONS

a. Each labor organization desiring qualification to represent PCAA employees shall file with the Board provided in Section 5, a statement containing the following

- (1) the name and address of the organization
- (2) charter or constitution and by-laws
- (3) the names and titles of its officers
- (4) the names of any other persons authorized to represent the

organization

(5) a statement that membership in such organization is not denied because of race, creed, color, sex, age, national origin, political affiliation, marital status, or handicapping condition.

b. Any labor organization not subject to the regulation of the Labor Management Reporting and Disclosure Act of 1959 as amended (29 USC Section 401



Et Seq) shall certify to the Board in a form satisfactory to It the organization's procedures:

(1) for the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the rights of individual numbers to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) for the exclusion from office in the organization of persons who would be prevented from holding office by the provisions of 29 USC Section 504 if the organization were subject to the regulation of such statute.

(3) for the prohibition of business of financial interests on the part of organization officers and agents which conflict with their duties to the organization and its members; and

(4) for the maintenance of fiscal integrity and the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

c. The official designated by the Board shall register each labor organization which complies with the requirements of this section and shall maintain a list of such qualified organizations.

d. Qualified labor organizations shall promptly notify the Board of any changes in the information required in Subsection a or b of this section which occur subsequent to the time of original filing. Complaints that a previously qualified organization no longer complies may be filed with the Board which shall investigate and determine whether or not the involved organization shall continue to be deemed qualified.

#### SECTION 5. PANAMA CANAL AREA LABOR-MANAGEMENT RELATIONS BOARD

a. There is hereby established the Panama Canal Area Labor-Management Relations Board which shall be autonomous and which shall consist of three members, whose terms shall be three years, to perform the functions hereinafter set forth. Each member shall hold office until his successor is appointed. If a vacancy occurs during a term, the appointee to said vacancy shall hold office for the remainder of the term and until his successor is appointed.

Within thirty days after this policy becomes effective, one member shall be appointed on the recommendation of the PCAA and one shall be appointed on the nomination of the labor organizations representing employees of the PCAA. The members thus selected shall together select with in seven days an impartial third member who shall be appointed and designated as Chairman. In the event the two members cannot agree, a listing of five persons qualified and willing to serve shall be obtained from the American Arbitration Association and the Chairman shall be obtained from such lists. The Chairman initially appointed shall serve for a full three year term. One of the two initial members shall serve for a one year term and one shall serve for a two year term. These terms shall be determined by lot. Vacancies on the Board including those for new term shall be filled in the same manner as the original appointments.

b. Qualifications of Members: The members of the Board shall have experience in the field of employee relations and shall possess the impartiality necessary to protect the interests of the PCAA and its employees.

c. Members of the Board may be removed by the Secretary of the Army only upon notice and hearing, and only for nonfeasance, neglect of duty, or malfeasance in office.

d. All members shall be eligible for re-appointment for one additional term, but no person shall serve more than two terms.

e. Organization and meetings of the Board. The Board shall have the following duties and powers:

(1) to determine and approve appropriate employee representation units.

(2) to arrange for and supervise the determination of exclusive representatives for appropriate units by means of elections. The results of such elections shall be certified by the Board,

(3) to decide matters involving certification or decertification of labor organizations,

(4) to investigate, consider, and resolve charges of unfair labor practices and violations of standards of conduct and to take such action as the Board deems necessary to effectuate this Policy, including but not limited to, the issuance of orders to reinstate, make whole, or other affirmative action and/or to cease and desist,

(5) to establish and maintain an adequate list of impartial mediators and fact-finders and to appoint same as provided for in Section 9 of this Policy,

(6) to act upon requests for mediation, fact-finding, or arbitration of disputes as provided in Section 9 of this Policy,

(7) to conduct investigations, hear testimony, and take evidence under oath at hearings on any matter subject to its jurisdiction,

(8) to consider and decide issues relating to rights, privileges and duties of a labor organization in the event of a merger, amalgamation, or transfer of jurisdiction between two or more labor organization or agencies,

(9) to delegate to one or more Board members, employees or agents the powers or duties it deems proper,

(10) to make recommendations concerning any necessary or desirable revisions in this Policy to the Secretary of the Army,

(11) to take such other actions as the Board deems necessary to effectuate this Policy.

f. The Board is authorized, following notice and hearing, to adopt reasonable rules and procedures not inconsistent with the provisions of this Policy or and other applicable statutory provisions and federal regulations and such other PCAA regulations as have not been superseded by the adoption of this Policy and which are



necessary in the performance of its duties under this Policy. The Board shall appoint, from the Office of Personnel Management eligible lists, such supportive staff as it deems necessary.

g. To accomplish the objectives and carry out the duties herein provided, the Board may preserve and enforce order during any proceeding, administer oath or affirmations to, and compel the attendance and testimony of books, papers, records, documents and other evidence. Any notice of hearing, or other process or notice of the Board issued under the provisions of this Policy or rules or regulations adopted thereunder shall be served personally or by certified mail, a return made and verified by the individual making such service and setting forth the manner of such services is proof of service.

h. The Board is authorized, following notice and hearing, to adopt reasonable rules and procedures not inconsistent with the provisions of this Policy or any other applicable statutory provisions and federal regulations and such other PCAA regulations as have not been superseded by the adoption of this Policy and which are necessary in the performance of its duties under this Policy. The Board shall appoint, from the Civil Service eligible lists, such supportive staff as it deems necessary.

i. The PCAA shall provide appropriate office facilities, reference periodicals and books, equipment, and supplies for the Board and such staff as the Board may appoint. The PCAA also shall provide recording and transcription services for all public hearings conducted by the Board. Copies shall be made available to the parties at actual cost of reproduction.

j. The Chairman shall be paid an annual salary of \$\_\_\_\_\_, which shall be paid in equal bi-weekly installments. The PCAA and labor organization nominated members of the Board shall receive an honorarium of \$250.00 for each day engaged in the work of the Board. All members of the Board shall be reimbursed for expenses including those reasonable incurred in traveling to and from and attending meetings and functions of the Board.

k. The Board shall make such expenditures including expenditures for personal services, rental, law books, books of reference, periodicals, furniture, equipment, and supplies as may be necessary in exercising its authority and powers in carrying out its duties and responsibilities. All such expenditures of the Board shall be allowed and paid by PCAA upon the presentation of itemized vouchers therefore approved by the Chairman.

l. The Board shall maintain and keep open during reasonable business hours an office for the transaction of its business at which its official records and papers shall be kept. The Board may hold sessions and conduct hearings at any place within the area.

m. The Board shall have a seal for authentication of its orders and proceedings and it shall be judicially noted.

n. Any hearing held or oral argument heard by the Board shall be open to the public, but the deliberations of the Board in any proceeding before it shall be closed. All draft orders developed in preparation for or preliminary to the issuance of a final written order shall be exempt from public disclosure under the freedom of information act.

#### SECTION 6. CERTIFICATION OF LABOR ORGANIZATIONS

a. The determination of an appropriate unit will be made by the Board on a case to case basis. The Board shall apply the following factors in determining the appropriateness of representational units:

- (1) The community of interest of employees
- (2) The lawful unit grouping that the employees and the employer have followed in past bargaining over a substantial period.
- (3) The desires of the employees.
- (4) The history of employee representation in the unit among other employees of the PCAA and in similar employment.
- (5) The operational requirements of the PCAA.

b. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes--

- (1) any management official or supervisor except as provided in Section 17 of this Policy;
- (2) an employee engaged in personnel work in other than a purely clerical capacity;
- (3) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit;
- (4) an employee engaged in administering the provisions of this Policy;
- (5) a confidential employee;
- (6) any employee primarily engaged in investigative or audit functions relating to the work of individuals employed by an agency whose duties

directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

c. All elections shall be conducted under the supervision of the Board, or persons designated by it, and shall be by secret ballot. Each employer eligible to vote shall be provided the opportunity to choose the labor organization he or she wishes to represent him or her, from among those on the ballot, or "no union". Elections may be held to determine whether--

- (1) a labor organization should be recognized as the exclusive representative of employees in a unit;
- (2) a labor organization should replace another labor organization as the exclusive representative;
- (3) a labor organization should cease to be the exclusive representative.

d. Petitions and Elections. A petition may be filed:

- (1) by a qualified labor organization that can demonstrate that thirty percent (30%) of the employees in an appropriate unit has signed authorization cards, or are dues paying members of that labor organization; or
- (2) by an agency certifying that one or more qualified labor organizations meeting the requirements of (1) above, has presented to it a claim to be recognized as the exclusive representative in an appropriate unit; or
- (3) by thirty percent (30%) of the employees in an exclusive unit alleging the exclusive representative is no longer the representative of the majority of employees in their unit.

When a petition has been filed as set forth above, all qualified labor organizations known to have members or known to be seeking recognition in the unit shall be notified by the Board, in writing, of the proposal, the description of the unit, the name of each labor organizations having or seeking exclusive recognition, and advised that they have ten calendar days after the date of the notice in which to register with the Board any views as to the proposed unit. Each such organization shall be further advised that, if it wishes to represent the employees in the same unit, it must demonstrate that it has the support of at least ten percent (10%) of the total number of employees evidenced by signed authorization cards, or as dues paying members in said unit, or thirty percent (30%) of the total number of employees has signed authorized cards, or are dues paying members in any smaller unit included in said unit. On the same date of the notices required by the paragraph above,



notice of the petition shall be posted on appropriate bulletin boards, in the unit, together with a statement of the time limit (ten calendar days after the date of posting) within which views or other specific unit proposals by labor organizations must be submitted to the head of the Board.

The Board shall conduct such inquiries and investigations or hold such hearings as it shall deem necessary in order to decide the question raised by the petition or petitions. The Board's determination may be based upon the evidence adduced in such inquiries, investigations, or hearings as it is or its agents shall make or hold, or upon the results of a secret ballot election as it shall direct and conduct.

e. List of Names. Upon the direction of an election by the Board, the agency shall furnish each labor organization approved for inclusion on the ballot, a list of the names and departments of employees in the representation unit. The list shall be furnished a reasonable time in advance of the election and in no event later than seven days after the direction of an election.

f. Elections. In any election for exclusive recognition the labor organization receiving a majority of the valid votes cast shall be certified as the exclusive representative of all employees in the voting unit. Where no choice on the ballot including that of "no union" receives a majority, there shall be a run-off between the two high choices. The Board shall certify the results of the election.

g. Duration of Certification. When a labor organization has been certified as the majority representative of an appropriate unit, certification shall remain in effect for one year from the date thereof, and thereafter until the organization is decertified pursuant to subsection d(3) of this section.

h. Effect of Certification. When a labor organization has been certified as the exclusive representative of employees in an appropriate unit, it shall be entitled to represent and bargain collectively for all employees in the unit and it shall be responsible for representing the interests of all such employees without discrimination and without regard to labor organization membership. Such labor organization shall have the right to participate in the formulation, implementation, and modification of personnel policies and practices and all other matters affecting the conditions of employment of employees in the unit. The agency and such labor organization, through appropriate officials and representatives, shall meet at reasonable times and places for purposes of negotiating a written collective-bargaining agreement. The

agency and the labor organization shall negotiate in good faith for the purpose of arriving at a collective-bargaining agreement.

i. After having determined that a unit is appropriate, the Board may certify the labor organization as the exclusive representative without a secret ballot election if the labor organization can satisfy the Board that a majority of the eligible bargaining unit employees are currently members of the labor organization.

#### SECTION 7. DUTY TO BARGAIN

The duties of the PCAA and a certified employee organization to negotiate in good faith shall include the mutual obligation:

- (1) To approach the negotiations with a sincere resolve to reach an agreement;
- (2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on all matters within the scope of collective bargaining;
- (3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;
- (4) to furnish to the other party, upon request, data normally maintained in the regular course of business, reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining; and,
- (5) to negotiate a grievance procedure to be used for the settlement of disputes between employer and employee and groups of employees involving the interpretation or application of a collective bargaining agreement which shall have as its terminal step a final and binding disposition by an impartial neutral mutually selected by the parties.
- (6) If an agreement is reached to execute, upon request, a written document embodying the agreed terms and to take such steps as necessary to implement the agreement; provided, however, recognition of any labor organization in whatever form accorded and any grievance procedure provided pursuant to (5) above shall not preclude any employee regardless of his membership or non-membership in any labor organization from bringing grievances to the attention of appropriate agency officials on condition that the adjustment of such grievances is not inconsistent with a collective bargaining agreement then in effect and that the bargaining representative shall be given the opportunity to be present and to present its views and provided

further employees may be required to elect between contractual grievance procedure and Civil Service or other Agency procedures.

(7) Upon request of either party, the formulation of preliminary ground rules and any such understandings reached by the parties may be incorporated in a separate written agreement; and,

(8) to furnish to the other party, upon request, data normally maintained in the regular course of business, reasonably available and necessary for full and proper discussion understanding and adjustments of complaints and grievances in the administration or application of a collective bargaining agreement; provided however this shall not require disclosure of material prohibited from disclosure by "right to privacy" laws of the United States, and the PCAA by regulation may provide procedures for the acceptance of waivers or limited waivers from employees authorizing furnish of any such information.

## SECTION 8. NEGOTIATIONS AND CONSULTATIONS

### a. Negotiations:

(1) The scope of good faith negotiations between management representatives and representatives of labor organizations included the execution of the budget; formulation and application of personnel regulations and initiation of revision of existing personnel regulations and conditions of employment.

(2) Negotiation shall not be required on any matter preempted or specifically provided for by federal law nor shall negotiation be required on the exercise of Employee Rights as defined in Section 2 of this Policy.

(3) Requests for negotiations by exclusive representatives on matters requiring major budgetary financing shall be submitted to the management representative in time for adequate discussion, consideration and action in connection with the budget.

(4) The PCAA will make available to labor organization such information pertaining to employment relations as is contained in the public records of the PCAA subject to the limitations and conditions set forth elsewhere in applicable law of the United States.

A) Such information shall be made available during regular working hours in accordance with the PCAA rules and procedures.

B) Information which shall be made available to labor organizations includes regularly published data covering subjects under discussion.

### b. Consultation:

(1) The scope of consultation between management representatives



and representatives of affected exclusive representatives includes employee relations matters that are specifically excluded from negotiations.

(2) Every reasonable effort shall be made to have consultation prior to effecting basic changes in any rule or procedure affecting employee relations.

(3) Requests for consultation shall be directed to the management representative of the PCAA having jurisdiction over the matter to be discussed.

c. Advance Notice of Proposed Change in Regulation:

The PCAA shall give reasonable advance written notice to each qualified labor organization affected, of any rule regulation within its jurisdiction directly relating to matters within the scope of representation proposed to be accepted, amended or repealed and shall give such employee organization the opportunity to meet with the PCAA or his representative to discuss such rule or regulation.

#### SECTION 9. IMPASSE PROCEDURE

a. At least thirty (30) days prior to the expiration date of any collective bargaining agreement, or thirty (30) days after commencement of negotiation of an initial agreement, the parties shall notify the Board of the status of negotiations. The Board shall assign a mediator upon request of either party or upon its own motion.

b. If upon expiration of an existing negotiated agreement, or thirty (30) days following certification or recognition of an exclusive representative, an impasse exists between the employer and the exclusive representative, the parties may jointly petition the Board to initiate fact-finding; however, the parties must have made a significant effort to resolve the differences themselves. The Board has the authority to return the issue to the parties.

(1) Within three (3) days of receipt of such petition or the Board's independent initiation, the Board shall submit to the parties a list of seven qualified, disinterested persons obtained from the Federal Mediation and Conciliation Service, from which list each party shall alternate in striking three (3) names, and the remaining person shall be designated "fact finder." This process shall be completed within five (5) days of receipt of the list. The parties shall notify the Board of the designated fact finder.

c. The fact finder shall immediately establish dates and places of hearings. The fact finder may administer oaths and shall afford all parties full opportunity to

examine and cross-examine all witnesses and to present any evidence pertinent to the issue in dispute. Upon completion of the hearings, but no later than twenty (20) days from the appointment, the fact finder shall make written findings of facts and recommendations for resolution of the dispute and shall serve such findings on the PCAA, the exclusive representative, and the Board. The Board may make this report public if the dispute is not resolved five (5) working days after the report is submitted to the parties. If the dispute is not resolved within ten (10) working days after the report is submitted to the parties, the Board shall take whatever action it considers necessary to resolve the impasse, including hearings before the Board or adoption of the fact finder's report. Such action by the Board shall be binding on the parties.

d. The concerned agency and the exclusive representative shall be the only parties to fact-finding proceedings.

e. The cost of mediation and fact-finding proceedings shall be borne by the Board.

f. Nothing in this section shall be construed to prohibit the fact finder from endeavoring to mediate the dispute.

g. Nothing in this section shall be construed to prohibit the parties from voluntarily agreeing to submit any or all of the issues in dispute to final and binding arbitration, and if such agreement is reached said arbitration shall supersede the fact-finding procedures set forth in this section. An agreement to arbitrate, and the award issued in accordance with such agreement shall be enforceable in the same manner as is a contract. The cost of such interest arbitration shall be shared by the parties.

h. Except upon written agreement to the contrary, when the parties reach an impasse, one party may not change a personnel policy, practice, or working condition without first providing the other party with sufficient notice of its intent so that the other party may invoke these impasse procedures. If these procedures are not invoked, however, the parties must adhere to established policies, practices and working conditions to the maximum extent possible. In the absence of an overriding exigency, the status quo will be maintained until such time as the impasse procedures are completed.

#### SECTION 10. GRIEVANCE AND ARBITRATION PROCEDURES

a. An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances, and culminating in final and binding arbitration, except as provided elsewhere in this

Policy, or in paragraph b, below. The coverage and scope of the procedure shall be negotiated by the parties to the agreement, except matters for which there is a statutory appeal procedure which by statute is exclusive and so long as it does not otherwise conflict with statute or this Policy. Subject to such limitation all grievances of an employee or the labor organization on the one hand, or the PCAA on the other, must be submitted through such procedure. However, any employee or group of employees in the unit may present such grievance to the agency and have them adjusted without the intervention of the exclusive representative, as long as the adjustment of such grievances is not inconsistent with the terms of the agreement and the exclusive representative has been given opportunity to be present at the adjustment.

b. Equal Employment Opportunity complaints and appeals of adverse actions shall be covered by the negotiated grievance and arbitration procedure. The employee, however, shall retain the option of having such a complaint or appeal processed under the negotiated procedure or the statutory procedure. This election must be made prior to submission to arbitration.

c. A negotiated procedure shall provide for arbitration of grievances. Arbitration may be invoked only by the agency or the exclusive representative.

d. Questions as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may be submitted to arbitration as a threshold question.

## SECTION 11. APPROVAL OF AGREEMENTS

An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved within thirty (30) days from the date of its execution if it conforms to applicable laws, the Policy, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. An agreement which has not been approved or disapproved within thirty (30) days from the date of its execution shall go into effect without the required approval of the agency head and shall be binding on the parties subject to the provisions of law, the Policy, and the regulations of appropriate authorities outside the agency.

## SECTION 12. STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS

a. An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph b of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization, or



federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for--

(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with any organization which advocates the overthrow of the constitutional form of government in the United States, and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and,

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

b. Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph a of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that--

(1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph a of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this policy.

c. A labor organization which has or seeks recognition as a representative of employees under this Policy shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

d. The Board shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the Federal sector. Complaints of violations of this section shall be filed with the Board.

## SECTION 13. USE OF OFFICIAL TIME

a. Employees called upon by either party to participate in any phase of proceedings under this Policy, including elections, investigations, hearing, arbitrations, negotiations (including ground rules), and grievance and impasse procedures shall be free to do so on official time without suffering any loss of pay or benefits and all such employees shall be free from restraint, coercion, interference, intimidation, or reprisal as a consequence of their participation.

b. Qualified labor organizations may hold, at least semi-annually, one meeting on official time.

## SECTION 14. DUES DEDUCTION

a. The PCAA shall, on receipt of the written authorization of an employee deduct from the pay of said employee at no cost to the labor organization or employee any dues or fees designated or certified by the appropriate officer of a labor organization, and shall remit said monies as directed by said labor organization together with a complete listing of employees in the unit showing that amount deducted from and remitted for each; provided, that if an exclusive representative has been designated, the PCAA may not entertain an authorization on behalf of any other labor organization from an employee in said bargaining unit; provided further, that any such assignment shall be irrevocable for a period of at least one year or the termination date of the applicable collective agreement, whichever occurs sooner.

b. Nothing in this Policy shall preclude a labor organization that is the exclusive bargaining representative and which does not have a Union shop agreement from entering into an agreement with the PCAA whereby employees who are not members of a labor organization shall be required to contribute to the cost of the representing of all employees in the unit by paying such organization equal to eighty percent (80%) of the dues fees and assessments that a member of such organization is required to pay.

## SECTION 15. USE OF FACILITIES

Where exclusive recognition has not been granted, activity facilities shall be made available for the use of labor organizations where practicable, upon request, on an impartial and equitable basis, for the posting of notices, membership meetings outside regular working hours, and the like. Where a labor organization holds exclusive recognition, the control of that use of facilities shall be limited to that organization.

## SECTION 16. UNFAIR LABOR PRACTICES

## a. Agency management shall not--

- (1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Policy;
- (2) encourage or discourage membership in a labor organization by prohibited discrimination in regard to hiring, tenure, promotion, or other conditions of employment;
- (3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under Section 15 of this Policy when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;
- (4) discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this Policy;
- (5) refuse to consult or negotiate in good faith with a labor organization as required by this Policy;
- (6) fail or refuse to cooperate in impasse procedures and impasse decisions as required by this Policy;
- (7) enforce any rule or regulation which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or,
- (8) otherwise fail or refuse to comply with any provision of this Policy.

## b. A labor organization shall not--

- (1) restrain, or coerce any employee in the exercise by the employee of any right under this Policy;
- (2) cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this Policy;
- (3) discriminate against an employee with regards to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, political affiliation, marital status, or handicapping condition;
- (4) refuse to consult or negotiate in good faith with an agency as required by this Policy;



(5) fail or refuse to cooperate in impasse procedures and impasse decisions as required by this Policy;

(6) otherwise fail or refuse to comply with any provision of this Policy.

c. For the purpose of this Policy it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative for any reason prohibited by this Policy, except for --

(1) to meet reasonable occupational standards uniformly required for admission; or

(2) to meet the non-discriminatory requirements of the organization's constitution, as a condition of obtaining membership in the organization, or

(3) to tender dues or other payments required as a condition of acquiring and retaining membership or by the collective agreement.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws to the extent consistent with the provisions of this Policy.

d. The expression of any personal view, argument, opinion, or the making of any statement which--

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election;

(2) corrects the record with respect to any false or misleading statement made by any person; or,

(3) informs employees of the Government's policy relating to labor-management relations and representation, shall not if the expression contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, (a) constitute an unfair labor practice under any provision of this Policy; or, (b) constitute grounds for the setting aside of any election conducted under any provisions of this Policy.

e. Charges of unfair labor practices under this section may be made by an employee representative, an individual employee or a group of employees, or by a management representative. Such claims shall be processed by the Board in accordance with its rules.

f. If, upon a preliminary investigation, it is determined by the Board or its agent that there is not substantial evidence indicating a prima facie violation of the applicable unfair labor practice provision, the designated agent or the Board

shall dismiss the charge, subject to the right of the charging party to appeal to the Board.

g. If the Board or its agent determines there is substantial evidence indicating a prima facie violation, the Board or such agent shall issue and cause to be served upon the person charged with the violation a complaint and notice of hearing before the Board or a member thereof, or before a designated agent at a place therein fixed to be held not less than fourteen (14) days after service of a copy of the complaint by the Board. Any charge may be amended by the charging party at any time prior to the issuance of a complaint based thereon provided the charged party is not unfairly prejudiced thereby. The person upon whom the complaint is served shall file an answer to the complaint, the charging party and the respondent shall have the right to appear in person or otherwise and give testimony at the time and place fixed in the notice of hearing in the discretion of the member or conducting the hearing, or the Board, any other person may be allowed to intervene in the proceeding and to present testimony at any hearing. The Board shall not be bound by the judicial rules of evidence.

h. The testimony taken by the Board or its member or agent shall be reduced to writing and filed with the Board. Thereafter, the Board, upon notice, may take further testimony or hear argument.

i. No complaint shall be issued based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the Board unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces in which event the six (6) month period shall be computed from the day of his discharge.

j. If the Board's decision is that the PCAA has engaged in an unfair labor practice or has otherwise violated this Policy or any rule or implementing regulation issued thereunder, the Board shall direct the PCAA to take appropriate corrective action. If compliance with the Board's decision is not obtained within the time specified by the Board, it shall so notify the other party, which may then resort to its legal remedies.

k. If the decision is that a labor organization or its representatives have engaged in an unfair labor practice, or have otherwise violated this Policy or any rule or implementing regulation issued hereunder, the Board shall direct the offending party to take appropriate corrective action. If compliance with the Board's decision is not obtained within the time specified by the Board, it shall so notify the parties and shall take appropriate action to enforce its decision.

## SECTION 17. SAVINGS CLAUSE

a. This Policy does not preclude the according of recognition for units containing management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry, or elsewhere in the Federal or public sector, and which hold recognition for units of such officials or supervisors in an agency on the date of this Policy.

b. Allotments for the withholding of dues to labor organizations which were in effect prior to the date of this Policy will continue in effect until--

- (1) revoked by the employee;
- (2) terminated for other reasons (e.g., death, retirement, separation, transfer between agencies, change of pay-roll office);
- (3) the employee becomes a member of an exclusive unit represented by a different labor organization; and
- (4) the employee is suspended or expelled from the labor organization.

## SECTION 18. APPLICABILITY

a. This Policy applies to all employees of the Panama Canal Commission and employees of DOD activities in the Republic of Panama regardless of nationality, except as provided below--

(1) any office, bureau, or entity within an agency, which has as a primary function intelligence, investigative, or security work, when the head of the agency shall so certify to the Board and the Board after investigation and pursuant to standards adopted under the provisions of the Administrative Procedures Act, determines that the Policy cannot be applied in a manner consistent with national security requirements and considerations;

(2) any office, bureau, or entity within an agency which has as a primary function investigative or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency shall certify to the Board and the Board after investigation and applying standards adopted pursuant to the procedures of the Administrative Procedures Act, determines that the Policy cannot be applied in a manner consistent with the internal security of the agency,



b. Employees engaged in administering this Policy shall not be represented by a labor organization which also represents other groups of employees under this Policy, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

#### SECTION 19. CONSTRUCTION OF POLICY

Nothing in this Policy shall be construed to deny any person or employee rights granted by law or to conflict with provisions of any law applicable to the PCAA and its employees.

#### SECTION 20. SEPARABILITY

If any provision of this Policy, or the application of such provision to any person or circumstance, is for any reason held to be invalid by the decision of any court having plenary jurisdiction over the PCAA and its employees, such decision shall not affect the validity of the remainder of this Policy or the application of such provision to persons or circumstances other than those as to which it is held invalid.

#### SECTION 21. EFFECTIVE DATE

a. This Policy shall become effective upon adoption by the Secretary of the Army.

b. Revisions of this Policy shall be made and become effective only after compliance with the rule making requirements of the Administrative Procedures Act of the United States have been met and time for appeal therefrom has expired without an appeal or after final ruling on an appeal whichever is later.

The CHAIRMAN. Thank you very much, Mr. Hamilton. President Wall and each of you gentlemen, we extend our deep appreciation.

Now, Mr. Graham. I didn't have you on the list.

#### STATEMENT OF ALFRED J. GRAHAM

Mr. GRAHAM. The affiliated local unions of the Affiliated Local Metal Trades Council wish to express our appreciation to the committee for the opportunity to speak to you about the related legislation.

The CLMTC is composed of a large cross section of Federal employees in the Canal Zone such as local craft unions, the nurses, guards and customs agents, maritime engineers, firefighters and schoolteachers. Our Council testimony is included in the joint package presented to you by President Shannon Wall of the National Maritime Union of America.

At tomorrow's hearing, or today, if time permits, our American Federation of Teachers will present you with a position paper and statement concerning problems unique to Canal Zone schools.

Today our only scheduled oral presentation will be given by our first vice president, Mr. Mark Tartar, member of the Association of Machinists and Aerospace Workers Local 811.

The CHAIRMAN. Mr. Tartar, you may proceed.

## STATEMENT OF MARK TARTAR

Mr. TARTAR. I am first vice president of the Central Labor Union and Metal Trades Council. The purpose of my appearance before this committee is to seek your help and support in obtaining legislation to combine civil service and railroad retirement benefits for 30 employees of the Panama Canal Company.

Combining railroad retirement benefits with civil service benefits is not a new concept. In 1948, the Senate passed a bill, S. 2326, pertaining to the Alaska Railroad Retirement Act of June 29, 1936. It authorized and directed the transfer of employee retirement credits to the civil service retirement and disability fund. Those transferred credits applied to the disparity between service pertaining to the Alaska railroad and tenure pertaining to civil service after those employees became civil service employees.

In effect, there are 30 employees of the Panama Canal Company serving the railroad and other company units who formerly had specific tenure of employment with class A railroads in the United States under the provisions of the Railroad Retirement Act, as amended. The list of employees involved indicates that the ages of the respective American citizens range from 42 to 63 years. As a practical matter, with rare exceptions, not one of these employees can regain any class A railroad status in the continental United States where seniority rights on the class A railroads eliminate any possibility of being rehired.

Furthermore, the passage of time while each of the employees has served the United States and the Panama Canal Company precludes any hope of achieving remediable compensable benefits through railroad retirement. Consequently, unless the Congress acts to correct the disparities which exist, these particular former railroad employees will lose retirement income under both systems.

We are seeking a transfer of funds and credits from one Federal system to another Federal system. The passage of specific legislation correcting the disparity by consolidating the two forms of tenure will create no cost to the taxpayers of the United States or add burdens to the fiscal requirements of subsidies by the Congress. During the past 5 years, we, the 30 employees, have had legislation introduced, H.R. 14939 and H.R. 4201, to combine the two retirement credits, but we were not successful. On October 1, 1979, the Panama Canal Company will relinquish control over the Panama Railroad. At that time, a number of the 30 employees will either have to or wish to retire.

Therefore, it is respectfully requested that the Post Office and Civil Service Committee propose remedial legislation at the earliest possible date to merge our railroad retirement tenures with our civil service tenures into continuous tenure for civil service retirement benefits.

[The following statement from the Canal Zone Central Labor Union and Metal Trades Council, AFL-CIO, was received for the record:]

Canal Zone Central Labor Union  
and Metal Trades Council, AFL-CIO

Box 471, Balboa Heights, C. Z.

TESTIMONY BEFORE THE POSTAL AND CIVIL SERVICE COMMITTEE

In the following commentary and recommended improvements to the proposed Bill to Implement the Panama Canal Treaty of 1977, we shall very likely address matters which are not the direct concern of this Committee. However, we believe that it is important for the Committee to be aware of the total environment in which the employees of the Panama Canal Company and Canal Zone Government function. We live in a Company town. On the surface, the visitor sees an idyllic community. Yet, even with the present status of the Canal Zone, those who have chosen to serve here have had to make sacrifices. Simple examples are the loss of the pleasure of financial advantages of home ownership, missed career opportunities, and the severe disruption to extended family relationships.

With the loss of U. S. Constitutional protections, a police force that operates within the Bill of Rights, the Postal Service, pure food and drug laws and many of the amenities of Canal Zone life, each employee must make a fresh decision regarding his job, future and lifestyle. It is a fact of life that if the rewards offered are great enough, people will go anywhere. Through the Congress's action on our recommended incentives, the thousands of individual decisions will develop into trends of immediate exodus or willingness to stay and assist the Panama Canal through the entire transition period. There is great pride among the workforce in the waterway and we would like to see it remain a model of efficiency, but without sufficient inducements, the many critical skills so necessary to its operation may be lost. For the 20 years remaining, let the Congress not be accused of being "penny wise and pound foolish."

In Section 105, we would like to request that 25% of the designees to enjoy the privileges and immunities accorded under Article VIII of the Treaty will be representatives of United States organized labor groups in the Republic of Panama. Unfortunately, in the past, some of our labor leaders were detained because of their activities and views.

In Section 106, which deals with the transfer of records, we ask, for obvious reasons, that the individual records of U. S. citizens be transferred only in consonance with the U. S. Privacy Act.

In Section 205, in which the Board of Directors of the Commission is defined, we ask that a qualifying statement be added providing that no more than 50 percent of the individual country representatives may be officers of military forces. The reasoning



for our request is that the Commission will be a civilian agency and the Board of Directors should be attuned to civilian desires for lack of regimentation.

We would also like it noted that we recommend approval of Section 206 as written which specifies quorum requirements for the Board of Directors.

In Section 208, which deals with the liability of the Commission, we would like to be added to "(C) it is exempt from any liability for prejudgment interest" the additional clause, "except in cases involving employee compensation in any form." It is sad to report that employees have often had to sue for that which was owed them and it is hoped that this addition would have the effect of keeping cases from reaching the courts and preventing delays or appeals which are designed solely to discourage and bankrupt employee organizations.

In Section 212b, we would like added to Section 232 of title 2 of the Panama Canal Code a paragraph "e" providing that Military facilities are authorized to provide health care services to elderly or disabled persons who were eligible for such health care prior to the effective date. It is felt very strongly that the moral obligation which the U. S. Government has to these people, many of whom worked during the construction era, will not be fulfilled by merely providing the funds for their care in Panama. Hospitals in the Republic of Panama in the canal area are already overcrowded and will in three years have to serve the Panamanian employees' families who are presently treated in the Canal Zone hospitals. There is a very real fear that the elderly and disabled will be lost in the shuffle.

In Section 213b, which provides for cross servicing agreements between agencies, we would like added to Section 372b of title 2 of the Panama Canal Code the provision that no cross servicing agreement shall result in the loss of any employee benefit referred to in Section 202 of title 2 Panama Canal Code, which is Section 321 of this bill. As we shall explain later, despite assurances that there would be no loss of benefits to employees due to the Treaty, such as been planned for employees transferred to other agencies from the present Company-Government. It is our intention through this addition to discourage attempts to swindle employees and save money. At least one union was told that according to the Treaty, their function could be transferred to another agency which would in turn contract back to the Commission.

In Section 301, we ask that Section 154 of title 2 of the Panama Canal Code not be repealed since it precludes discrimination in training programs. While the Treaty provides for preferential hiring of Panamanians, once "on-board" they would have to be trained. However, to deny any employee, whether U. S. or Panamanian, the

opportunity to be trained for advancement on the basis of citizenship makes a mockery of the promise made repeatedly to us that there would not be preferential promotional policies. Thinking of the canal's future, it should seem obvious that the employee who perceives himself as being discriminated against will prefer to leave for better opportunities.

In Section 303, in which the Panama Canal Employment System is defined, we would like to add to title 2, Panama Canal Code, Section 142 a2 following the words "taking into account any recommendation of the Panama Canal Commission" the additional clause, "after appropriate coordination with labor organization under collective bargaining procedures established by the Treaty." Simply, we want to negotiate the regulations under which we shall be working.

Section 305 of the bill meets our approval. However, we would like it made clear that the limitation of not more than 25% overseas recruitment and retention differentials does not apply to the adjustment of compensation referred to in Section 324 of this bill.

Section 306a dealing with the transfer of Federal employees to the Panama Canal Commission has our approval, but we feel that present employees, who have no Stateside re-employment rights in other agencies need the following protection added: "Personnel who are transferred/detailed from other Federal agencies and who retain re-employment rights in that agency will not, in case of reduction in force actions in the Panama Canal Commission, Department of Defense Dependent Schools or other Executive agencies in the Republic of Panama be granted displacement rights over personnel who were employed by the Panama Canal Company/Canal Zone Government prior to the effective date of the Treaty.

In Section 307, dealing with Merit and Other Employment Requirements we, would like to again insert, following the words "recommendation of the Panama Canal Commission", the phrase, "after appropriate coordination with labor organization under collective bargaining procedures established by the Treaty." The entire point of collective bargaining is to have some say in one's job destiny and we feel that to exclude us from the establishment of the ground-rules diminishes everything else we do.

Section 321 of the bill is necessary to meet the Treaty Requirement of Article X, paragraph 2b which is designed to "grandfather" benefits enjoyed by present employees. In the enumeration of benefits there are some changes which need to be made if there is to be true meaning behind the assurances which were given to the employees and organized labor that we would be taken care of. Certainly nothing is more fundamental than the method by which a worker is compensated. Yet, in listing "wage rates",

the Administration has made it clear that only present salaries are guaranteed.. Future raises will depend on administrative action. This would seem to be a rather high-handed attitude in the face of the Comparability Act and past practice. "Terms and conditions of employment" - we do not bargain for our raises nor do we beg for them; we get them automatically when our counterparts in the States get them. Many of us are on wage bases that are related to various areas. In the case of one of them, the Washington, D. C. pay base, Congress said quite clearly, as can be seen in Attachment #1, that although statutory authority had to be repealed in implementing the 1955 treaty, "It is the intent of the Congress that the precedent established in the Canal Zone in relating Canal Zone wage increases to comparable wage increases in the United States will continue to be followed." Obviously, in an inflationary world, frozen wages will become reduced wages. If payments to the Republic of Panama are to be adjusted for inflation, why should not the salaries of those who are responsible for the toll revenues be similarly adjusted? We are being asked to remain with the Panama Canal to see it through the transition, but unless this interpretation of "terms and conditions of employment" is changed by the Congress, it would appear that the employees who remain the longest can look forward to having their pay frozen as soon as the Administration feels that there are few enough of them in their particular craft that their loss could be absorbed. Every worker can see this being applied to his job; it is just a question of when. We, therefore, ask that you change "wage rates" to read "wage bases and formulas."

We also request that following "leave and travel," the phrase "except as modified to provide equity with other employees within the agency to which the employee is transferred" be deleted. When the employees who are scheduled to be transferred were employed by the Panama Canal Company-Canal Zone Government, they received a total benefit package. They have every reason to expect that their benefits should remain intact since they will be doing the same work at the same location with the same U. S. Government as employer. These employees certainly did not ask for this transfer; they are only pawns in a budgetary reshuffling. The requested deletion will also remove the incentive to arbitrarily transfer other employees as we noted in Section 213.

In addition to the itemized benefits, we would like to add, "sabbatical leave for teachers, provision for housing or additional housing allowance, educational travel benefits and maximum hours standards for all firefighters as established by the Fair Labor Standard Act." The latter is necessary due to the inapplicability of the Act following entry into force. We also request a final sentence, "All other present benefits not specifically listed above are not excluded by this enumeration" be



added at the end of Section 202, title 2 of the Panama Canal Code.

In Section 322, dealing with the placement program, we ask that paragraph "d" be added to Section 203 of the Panama Canal Code title 2 as follows: "A United States citizen who immediately preceding the date of exchange of instruments of ratification of the Panama Canal Treaty of 1977 was an employee of an agency of the United States Government in the Canal Zone, Canal Zone Government-Panama Canal Company or other Executive Agency exempt from present 5 year rotation plan who wishes to leave voluntarily will be permitted to register for placement assistance at any time he desires throughout the life of the Treaty." This addition is necessary in order that employees have the confidence that there is an escape hatch if needed in case conditions deteriorate following the five years presently provided in the Office of Personnel Management's program. In five years, employees lose access to APO mail facilities, sales stores and exchanges. By making the termination of the voluntary placement program at the same time, employees are being encouraged to leave rather than continuing with the Commission.

In Section 323, establishing a new Section 204 to title 2 of the Panama Canal Code dealing with educational travel benefits, it is again necessary to "grandfather" the transferees by inserting after "Dependents of United States citizen employees of the Panama Canal Commission" the phrase, "and dependents of U. S. citizen employees of other Executive agencies who were employees of the Canal Zone Government/Panama Canal Company on the day prior to the effective date of the Treaty."

At the end of Section 324, Adjustment of Compensation, we would like added following, "shall be determined by the Panama Canal Commission" the phrase, "after appropriate coordination with labor organizations under collective bargaining procedures established by the Treaty." Also, a sentence reading, "The allowance will be subject to regular review by a joint Panama Canal Commission-Labor Committee."

Section 325 and 326 are the provisions for early retirement which, from the employees' standpoint, is the centerpiece of the implementing legislation. It is unfortunate that the Administration's provisions seemed to meet just one objective - the prevention of an exodus by employees with long periods of service. While this is an important factor within the first two or three years of the treaty, it does not take into consideration effective management through the next 20 years. The objective of inducing young employees to remain with the Canal was not met. Our proposal realistically defines a retirement system which meets the five parameters that exist:

- 1) Provide for employees who are to be displaced through no fault of their own bearing in mind that Panama has an astronomical unemployment rate and no unemployment or welfare benefits system.
- 2) Induce key employees to remain at the Panama Canal and maintain efficient operation.
- 3) Prevent an exodus of employees with long periods of service.
- 4) Prevent an exodus of employees with short periods of service who see an insecure future and do not want to become captives of the retirement system, but who would be willing to remain and see what will be happening.
- 5) Encourage those persons excess to the Canal's needs to separate.

Section 325, early retirement eligibility, begins with the Hazardous Duty employees. At present, the police are scheduled to be separated in three years. The firefighters have a particular problem regarding their future because unlike other employees who know that their jobs are to be phased out either October first, three years from now or not until the year 2000, the firefighters are in limbo. Two stations go to Panama and one is phased out as of October first. Beyond then, the treaty says, "...the United States...and the Republic of Panama...will review periodically the most effective allocation of both Parties' fire protection resources, and, if appropriate, the United States will transfer to the Republic of Panama such other fire stations as are excess to its needs." As Panama is to be paid to operate these stations and the payment are to be increased as more are turned over, what we have here is contracting out of Federal jobs at the stroke of a pen. It should be understood that it is virtually impossible to enter a municipal fire department after the age 35, aside from residency requirements, and that the placement program is of minimal benefit for continuation of a career as a Federal firefighter. The Administration has been asked to either provide a timetable of station turnovers or at least negotiate an agreement with the Republic of Panama that such additional transfers will only be accomplished by attrition of permanent firefighting personnel. But so far, only vague assurances, rather than guarantees, have been received. With their job security virtually non-existent, why should the firefighters remain? Inducements must be offered because aside from the obvious needs of serving the Commission and Military properties, world shipping and insurance interests demand adequate protection for the waterway. One inducement that we request is the deletion of the words "age and" which follow the clause "upon separation, meets the" in paragraph c2 of Section 8336 of Title 5 of the United States

Code. Actually, this would bring the eligibility requirements into line with those of most municipalities and to the level that we expect Hazardous Duty retirements are headed generally. Although it has long been known that a firefighter's life expectancy is ten years below the norm despite better physical condition at the time of entry into the field, only recently has it been found that heart attacks account for 44.5% of line of duty firefighter deaths and that they peak by the age of 45 and by 20 years service. These findings are graphically illustrated and attached. Obviously, the debilitating effects are cumulative. It is therefore also requested that because fire officers who were recruited from non-Federal positions in the United States were required to have prior experience, they be provided the opportunity to buy coverage in the Civil Service Hazardous Duty Retirement System for such years of service to a maximum of ten years provided that they do not have a vested interest in a pension plan for such service. We are not seeking that a person would be able to buy a double coverage nor that this be continued for those employed by the Canal Zone Government after the effective date of the exchange of instruments of ratification. It would be an appropriate way of recognizing the loyalty of Stateside recruits who, unlike a greater number of fire officers who have the handwriting on the wall regarding their job security.

#### Teachers buy-in and R.R. Retirement

We would also like to request that after the words "employed by" in subsections h3B and i2B the words "or rehired at the convenience of" be inserted to accomodate those persons who may have been temporarily displaced from employment during the entry into force and establishment of the Commission. In order to give younger employees more incentive to try out the Commission and the new lifestyle, we also recommend that provisions be adopted that would permit employees who are involuntarily separated with fewer than 18 years service to receive a deferred annuity at age 50 and those who are voluntarily separated with fewer than 18 years service to receive a deferred annuity at age 55. People in their twenties are needed to see the transition through to a successful completion, but the standard deferred annuity until age 62 for fewer than 20 years service is a disincentive to the young person who cannot conceive of that time ever coming.

We are requesting major changes to Section 306 of the bill to provide incentives for employees to not only stay until they meet the minimum requirements for retirement, but to remain beyond that time as well. We would like to introduce a new subsection (n)1: "The annuity of an employee retiring, immediate



or deferred, under this sub-chapter who was employed by the Panama Canal Company or Canal Zone Government on the day of exchange of ratification documents of the Panama Canal Treaty of 1977, is computed with respect to the service prior to the entry into force of the Panama Canal Treaty of 1977 by multiplying:

- A. 2 1/2 per cent of the employee's highest annual pay by the first 10 years of such service plus.
- B. 2 per cent of the employee's highest annual pay for the remaining years.
- C. Firefighters and law enforcement officers will have all such time computed at the rate of 2 1/2 per cent of the highest annual salary."

We would redesignate subsection (n) as (n)2 and after the word "retiring" insert the phrase "immediate or deferred" and substitute for all that comes after "multiplying" the phrase, "3 1/4 per cent of the employee's annual pay by such service." In Subsection O, we want to change from the fixed dollar amount that does not reflect the inflationary world in which we live. We request that you substitute for the phrase, "\$8 for each full month" the phrase "1/2 per cent for each full year." Because the Treaty also calls for both more liberal entitlement and computation of annuities, it is essential that the word "not" in the second sentence of Subsection O be deleted. Otherwise, as the bill is presented by the Administration, a firefighter or law enforcement officer with 20 years service before the entry into force will receive no greater computation of annuities. If our suggestions for Section 326 are adopted, we would have no objection to deleting subsection (p). However, otherwise, we request that the "\$12 for each full month" be deleted in favor of "3/4 per cent for each full year."

Section 327, which extends the provisions of various benefits provided in this bill to other groups which have been historically treated the same as Company-Government employees, is also endorsed by us.

Section 330 appears to be the appropriate place to add the following: The Washington, D. C. pay base for the public school system will be the applicable base for teachers who are employed by the Canal Zone Government School System immediately prior to the effective date of the Treaty and are transferred to the Department of Defense Overseas Dependent School System.

We would also like to go on record as approving of Section 341, 410 and 501 of the bill.

The CHAIRMAN. Thank you, Mr. Tartar.

Does that complete this panel?

Mr. WALL. Yes, it does.

The CHAIRMAN. President Wall and gentlemen, on behalf of the committee, our deep appreciation for your very fine testimony. I observe that you put a great deal of effort into it and you have made a number of excellent points.

Very briefly, President Wall, on page 2 of your statement, you said: "We ask that you urge the Congress to give the same consideration to the human aspects."

Fundamentally, that is the reason we are here today, to assure that the human aspect is considered in the process of this legislative effort. We want to assure that everybody is treated fairly, that as a result of this treaty, hopefully no negative action occurs that would be harmful to any employee. That is our mission.

Mr. WALL. We thank you very much for that.

The CHAIRMAN. Mr. Hamilton, you made a decent observation with respect to the recently enacted civil service reform legislation. I add to what you say that this committee will, very soon be initiating a series of hearings, taking a look at the implementation of the act. The bill was not an all perfect one. There are shortcomings within it. Our mission in this Congress will be hopefully to the move in the direction of correcting some of the shortcomings.

There will be further implementing legislation that in all probability this committee will be dealing with in this Congress. There may well be justification for specific treatment to Panama Canal Zone employees in that piece of legislation that may have been overlooked in the course of our deliberation of the civil service reform bill.

I would suggest to you, and obviously you have paid a great deal of attention to it, that you might want to put together a letter stating your observations and what changes might be effected in that legislation to the amendatory process that might have a direct and favorable effect on Panama Canal Zone employees.

Mr. HAMILTON. I will be happy to do so.

The CHAIRMAN. If you will do that and direct that letter to this committee, I assure you that your observation and your suggestions will be given every consideration.

Mr. HAMILTON. May I clarify for a moment?

The provision as in the statute is not officially bad. It was in there primarily because of the circumstances of, for example, in Europe where under status-of-forces agreements there are noncitizens who are employed but not directly by the United States. The same thing in Iran and other locations, and that is the reason.

This is a different ball game in Panama which is the reason I stressed and urged it for this location.

The CHAIRMAN. If there is a shortcoming here, we could move in the direction of correcting that shortcoming.

Mr. HAMILTON. Thank you, sir.

Mrs. SCHROEDER. Would the gentleman yield?

The CHAIRMAN. I will be delighted to.

Mrs. SCHROEDER. I was wondering if when he submits that, if we could also know which of the unions would agree with what he

submits. Is that possible? There are so many unions involved it is a little difficult for us to sort it out.

Would that be possible, Mr. Hamilton?

Mr. HAMILTON. I will endeavor to try to conduct a poll of them if that is what you are suggesting, but I don't believe that there is disagreement—if I am wrong, others can correct me on it—from the standpoint that there should not be discrimination as far as the canal is concerned on the basis of citizenship.

The CHAIRMAN. I would assume that in that the overture would have favorable effect, that everybody would be in support of it. But in any event, you have posed the question, Mrs. Schroeder. Mr. Hamilton has it and I am sure that he will confer with the other people seated about this table for agreement on whatever the language is.

Mr. HAMILTON. With this group I think I can answer immediately. There are other organizations in the zone that are not specifically here at the table.

Mr. WALL. When we submit the poll, Congresswoman Schroeder, we will not only give you the organizations but we will give you the percentage of participation they have in the overall canal labor zone.

Mrs. SCHROEDER. I think that would be helpful.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Derwinski?

Mr. DERWINSKI. I have one request for Mr. Tartar. You referred to the list of your 30 employees, sir. If you could get it for us, what I would like is the specific list with their individual ages, the length of time they have worked for the Canal Railroad, and the length of time and the railroad company that they were employed in in the United States before they came down to the Panama Railroad.

Would you be able to get that?

Mr. TARTAR. I would. I will forward it to you.

Mr. DERWINSKI. I appreciate that.

Then I have a question for Captain Werner. I want to apologize in advance that this sounds provocative, but it is not. It is intended to answer a question that your statement has brought to mind.

You made a reference to the fact that failure to enact proper retirement benefits would create an impossible situation in that there would be an exodus of your pilots. I gather what you are saying is that the canal operation would be very seriously affected.

My question is this: The very same position was taken in 1956 by the pilots in the Suez Canal, the French and British pilots, who then left and assumed when they left the canal would stop dead.

Now my question is: How could you justify or explain to me as a nontechnician why you are so certain that the situation here is different?

Captain WERNER. I could answer that by saying that the Panama Canal operation is unique in all the world. This parallel between the Suez Canal and Panama Canal is totally erroneous. The first individual to find that out was de Lesseps when he was successful in digging the Suez and was a failure in applying the same technique in the rocks of Panama.



Essentially the canal is a big ditch in the sand. The pilots take it in. If they have an error, they take it over again. In the Panama Canal it is a matter of locks and rocks. If the ship goes into the rocks, it sinks. We had one ship sink in this decade. It was in the canal for 2 years before we were able to get it out. At that time we had to route traffic around that particular ship.

I would say on a scale of 1 to 10 as far as maritime piloting goes, Suez would be 7 or 8 and Panama No. 1.

So the degree of difficulty in taking a ship through the Suez as compared to the Panama Canal are miles apart.

Mr. DERWINSKI. I presume, then, that the training time involved in an apprenticeship, everything else involved, the same factors would apply. It takes longer to train the pilot here?

Captain WERNER. Very true. As I pointed out, it takes a minimum of 9½ years before we get to the biggest ships because of the unique characteristics of this particular waterway.

Mr. DERWINSKI. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Wilson?

Mr. WILSON. Captain Werner, I have a question to ask you also. You said that:

As you may be aware, the inclusion of an open-ended liberalized retirement benefit as a retention incentive for midcareer employees is a product of an agreement made in good faith between the President of the United States and a past president of our Pilots Association in August 1977.

Is there a copy of that agreement?

Captain WERNER. We have reference to it on our files. We can supply you with that, yes.

Mr. WILSON. It just appears to me that this is an illegal activity. I am just wondering, if there is a written agreement such as you indicate, it may have been in violation of the treaty itself.

Captain WERNER. May I say that the agreement was in very broad terms.

Mr. WILSON. Well, I suspect the President made all kinds of agreements as he went along the road. We are still trying to find out what he did at Camp David.

Mr. Hamilton, I wonder if you could expand a little bit on why Panama should be treated differently than any other country in the world insofar as including foreign nationals on the same basis as Americans.

Now foreign nationals working for DOD and other agencies of the Government in all other countries, as far as I am aware of, are in separate bargaining units and they bargain for wages that are based on local economy. Here the Panamanians receive the U.S. minimum wage of \$2.90 an hour while in Panama City the average is about \$1. And you say this has to be done here because this is a unique situation.

I wonder if you could just educate me a little.

Mr. HAMILTON. All right, sir.

As I understand the treaty, we start with a predominantly American work force which is to be phased out to become a predominantly Panamanian work force through attrition, replacement, and so forth.

So we are going to have the situation which is different from these other locations that you describe in which individuals who are American nationals and who are foreign nationals will be working side by side in the same job classification doing the same job, and therefore it is necessary if there is to be any harmony in the workplace, any stability in the employment relationship, any elimination of perhaps reasons for overturning the situation, that the workmen be treated the same, that they receive the same, that the principle of equal pay for equal work, et cetera, be followed.

Now that is the principal and primary reason that I was getting to.

Additionally, of course, we have a situation that under the Commission there is a unique status. It is not predominantly American control. It is not predominantly Panamanian control. But it is in the state of flux. Our security demands that everything possible that can be done be done to insure that the canal operate.

Certainly, then, those areas of employee relations which can be used to avoid problems, incidents, et cetera, should be strengthened and reinforced. That is the reason we urge as we do.

Mr. WILSON. Well, of course, perhaps there is something unique here. But it seems to me that there are many areas where foreign nationals work side by side with Americans in other countries and have to bargain on a different basis.

Mr. WALL. Congressman Wilson, I think I would like to take a crack at that one with you.

Obviously, we are living in an entirely different situation here through the history of the American building of this Panama Canal which is an awful lot different than the Navy base in Subic Bay in the Philippines where we pay the natives at the standard status of forces rates in the Philippines.

It is quite a bit different than the Guantanamo Bay in Cuba where we employ the Cubans to work on our base.

It is quite a bit different than the situation in Germany where the German citizen is making more wages than the GI or the American dependents that are working for the U.S. Government in Germany. We are not paying the soldier and sailor in Germany based upon the German economy.

During World War I we had Philippine nationals sailing in the U.S. Navy and they received the same pay as all the other sailors in the U.S. Navy. When the status of the Philippines changed to one of an independent nation instead of a territory, we offered all of those Philippine sailors U.S. citizenship, the same thing that we are asking here for our nationals that work in the Panama Canal.

You want to remember that some of these men and some of these women, their grandfathers helped build this canal and their fathers worked here and retired here and these people came to work for Uncle Sam and they came to work here and they expected that they would retire and that perhaps their children would go to work in the canal and they might retire.

But the treaty has changed that. We are asking under those circumstances that this country—and we have made a lot of mistakes in Latin America. We have made a lot of mistakes here in Panama in the past and some of the people that are in the Government of Panama today grew up under the repression forces of the



United States. When we leave here in the next century, let's make sure that the mistakes of the past are not brought into the future.

I think that the entire U.S. position in this hemisphere is a good deal based upon what we do here as a government in our dealing with the Panamanian nationals and the Panamanian Government. We think there is a very unique situation and we would urge that the Congress recognize that uniqueness.

Mr. WILSON. I wonder if you could explain what you meant about the repressive treatment of people who have been brought up here under the U.S. Government. Do you have any comments on that?

Mr. WALL. The Panama Canal Zone and Government has been run as a colony of the United States. It started out that way. There were many things that were wrong until the trade union movements under Kennedy's Executive Order 10988 when the unions came down here and we were able to exert certain pressures on the relationships of the Canal Zone Government.

I can tell you one of the instances. We had our seamen down at the locks on the Colón side. There was a shapeup place for them. There was a canteen facility there. Those canteen facilities were only available to the U.S. citizens. Our canal lockmen had to go around and get it handed out to them, outside the canteen. If it was raining, if it was storming, they had to eat their food on the outside. It was the NMU, with the help of the pilots and the other unions here, that changed that. Our people can come inside the canteen.

Now if you don't think that that was a black eye on the United States in the treatment of people working for them, then I think that we don't see eye to eye on the issue. I think that our people here who have been here much longer in the Canal Zone could point out other instances.

Mr. WILSON. Well, thank you very much. I think the panel has contributed greatly to the hearings. This is going to be very difficult legislation, as you can probably imagine, for us to adopt just as everyone wants it. There are some 17 bargaining unions I believe that are involved in the canal. So, obviously, we will hear from the other groups that perhaps they will have a different approach to the problems.

Mr. WALL. They may very well, but let me just point out that those 22 organizations were created by the Panama Canal Company and Government itself. Executive Order 10988 signed by President Kennedy gave the right to bargain to Federal employees and included exclusive recognition. There is one little clause on the end of it, and I can't quote it directly, but it excluded installations vital to the defense of the United States and the Panama Canal Company can evoke that clause.

We almost had exclusive recognition from the Department of Defense down here and Panama Canal used their influence and told the Department of Defense they could not grant the exclusive recognition.

Mr. Douland who was then labor relations representative went to the administration and wanted the exclusive recognition eliminated. That means you can only have formal recognition and any organization that can get 10 percent of the members, and there can



be dual membership, and that is why we have 20-some organizations in the canal today.

Mr. WILSON. I don't want you to misunderstand my position, Mr. Wall. As a supporter of labor, I have carried the ball for the right to strike and for everything else for Government employees, postal employees. Then I found out that every time I put one of those bills in, the Right-to-Work Committee would put out a fundraising letter and raise a couple of million dollars for their war chest against us.

I am waiting now until I get more assurance of support before I put my feet in the water again on that issue.

But there were these questions that raised doubts in my mind, questions that I had, and I appreciate your response to them.

Mr. WALL. We fully realize the confusion. You ladies and gentlemen are extremely busy. The task facing you is immense. It is remarkable to us that you can keep up with the very myriad of problems that you are confronted with in your day-to-day deliberations in Washington.

We thank you very much.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Taylor?

Mr. TAYLOR. Thank you, Mr. Chairman.

Captain Werner, in your testimony you indicated that it takes 9½ years for a person to develop into a control pilot. Are there any nationals now who are control pilots?

Captain WERNER. I assume you are referring to Panamanian nationals?

Mr. TAYLOR. Yes.

Captain WERNER. This process does not eliminate a pilot from being a control pilot. I said this is the minimum time requirement for being a control pilot on the largest ships. There are a lot of smaller ships that go through and we do have Panamanian nationals as control pilots and they have been here since 1973 and they are performing admirably.

Mr. TAYLOR. You are in the process now of training more?

Captain WERNER. Yes. It is quite a problem because although Panama has a position that makes it a maritime country, traditionally they have not gone to sea so we are having a great deal of difficulty in finding individuals to work in the canal as pilot.

Mr. TAYLOR. Mr. Wall, looking to the future, and with the implementation of the treaties, and moving toward the year 2000, what do you see in the future as far as—and I am very appreciative of the attachment and the dedication that the technical people have here for the canal, and I might say that the Governor has for you people as he expressed to us in an informal briefing this morning, but as we move to the future, looking at the operation of the Panama Canal in the year 2000, will the Panamanian Government in your judgment be able to retain and maintain the quality of technical people that will be necessary under the wage structure that they might have to keep the canal open?

I know that is problematical. I know it is something that is subjective, but I would like your opinion on how you see the future.

Mr. WALL. Well, of course, a lot will depend upon the deliberation of the Congress enacting the things that we are concerned about.

Mr. TAYLOR. What we enact is only for 20 years, isn't it?

Mr. WALL. Yes.

Mr. TAYLOR. At the end of that time we are out. What happens then?

Mr. WALL. Well, we are having a great deal of difficulty getting through the last 2 or 3 years and getting the implementation of the treaty. Our job as we have said is not to negotiate the treaty. We left that to the experts. Our job is to represent our members, regardless of who their employer may be, to the best of our ability.

We have had problems with Uncle Sam, with the U.S. Government. We had them when we came here. We still have some of them here. We have resolved many of them. There are some that are still unresolved and they will be going on. We expect that when the Panamanians take over, we will just have a different employer, we will have the same problems. They will be resolved. There are some that will not be resolved.

Our job is to represent our members to the best of our ability. That is what we are looking forward to at the present time.

Mr. TAYLOR. In other words, you are taking it a day at a time. I can understand that.

Mr. WALL. At least a step at a time.

Mr. TAYLOR. A step at a time, right.

The CHAIRMAN. Thank you, Mr. Taylor.

Mrs. Schroeder?

Mrs. SCHROEDER. Mr. Chairman, thank you.

Also, I would like to ask your permission to submit a list of questions to each of the unions just to help us in the future.

The CHAIRMAN. Without objection, it is so ordered.

Mrs. SCHROEDER. I wanted to ask if there were other unions involved with your union, Captain Werner, in this broad agreement that they had with the administration regarding the treaty?

Captain WERNER. This was a broad agreement between our President and Mr. Carter in 1977 concerning our support for his efforts to get a treaty.

Mrs. SCHROEDER. Were there other unions involved that you are aware of?

Captain WERNER. No, I am not aware of any other unions that were involved.

Mrs. SCHROEDER. Do any of the rest of you at the table know of any other unions involved in that?

Mr. WALL. No.

Mrs. SCHROEDER. Did any of the other unions at the table support the treaty or was yours the only union down here that supported the treaty?

Captain WERNER. Let me clarify that. I think I said, "would not oppose the treaty."

Mrs. SCHROEDER. I see.

Were there any other unions that opposed it? Your union opposed it, Mr. Graham?

Mr. GRAHAM. That is correct.

Mr. WALL. Our position was from the very beginning that we were concerned with the rights of our employees, not with the technical aspects of the treaty. That we left to the governments. The governments signed the treaties. The governments negotiated



the treaties. We made it very clear to everyone that we could talk to that our concern was for the rights of the workers in that treaty.

We have a section in there that referred to the protection of the rights of workers and the next step is the implementing legislation which is the most important part of the treaty aspect for you.

Mrs. SCHROEDER. Were you involved in that negotiation in that part in the treaty?

Mr. WALL. No, we simply made our positions known to whoever would ask.

Mrs. SCHROEDER. But there was no active negotiation?

Mr. WALL. That is right.

Mrs. SCHROEDER. Mr. Hamilton, I have several additional general questions and I have many more specific ones.

I agree with what you are saying about how important it is to keep the canal open, and yet in your draft labor policy you come out with a right to strike. How do you put those two things together?

Mr. HAMILTON. While I personally favor the right to strike, I do not believe that I said that.

Mrs. SCHROEDER. I think the implication is there. My question is: How do we deal with the labor-management section, deal with the issue of right to strike, if our goal is to keep the Canal moving?

Mr. HAMILTON. The right to strike is the means of insuring that there is honest collective bargaining, otherwise it is just consultation, a meeting, or whatever else phraseology you want to apply. Experience has demonstrated that it is not the strike but it is the threat of a strike which is effective, which is the means of bringing parties together.

Now, if we run into the situation where there should be a strike situation, I have every confidence that the President would be able to invoke something along the 60-day emergency injunctive procedures of Taft-Hartley so as to put the parties back to the bargaining table.

Experience has demonstrated that where that procedure has been followed, that only a very negligible percentage of situations then result in a strike beyond the deadline.

Mrs. SCHROEDER. I think the fear is that with so many different unions and their all having a very important part of keeping the Canal going, and our treaty depending upon the tolls that go through, it could be a very, very intensive pressure point.

I think that is one of our major concerns as we look at it.

Mr. HAMILTON. That is the very point that I am making with reference to the citizenship question. That is, that if we are going to have the employees who are not given the rights and responsibilities and the obligations of American citizens, then we are going to have the provocateur situation. The ground is ripe for that to bring about the very thing you are talking about.

Mrs. SCHROEDER. Let me ask another question with respect to that.

You did not mention in your proposed labor policy certain things that are in title VII. I am not quite sure I understand. In title VII it says we don't recognize labor unions that are sponsored by an agency. My question: People were saying the Panama Canal Com-



pany had created some of the unions or helped some of the unions get formed. Therefore, they might not qualify under title VII.

Have you looked at that as a lawyer and determined whether the prohibition of agency-sponsored unions might apply to any of the Panama unions?

Mr. HAMILTON. I don't believe that it truly applies and I don't believe that Mr. Wall intended to state that the agency created it. Rather, the agency created the circumstance. We made it possible for this proliferation of organizations.

Mr. WALL. Congresswoman, could I disassociate the NMU just a little bit from the labor theory of my very good friend, Mr. Hamilton?

The National Maritime Union and all of the unions represented in the Canal Zone, in order to get recognition, have to pledge to the U.S. Government that they will not engage in a strike.

The National Maritime Union represents the seamen on the military sealift vessels, the military sealift command. We also represent seamen on commercial vessels that carry military cargo.

We have never once struck a cargo ship with military cargo on it under our pledge to the United States. We have honored our pledge in all of the Government facilities which NMU has contracts with, and they are quite considerable. We have never once entertained the idea of striking the Federal Government.

I wanted to disassociate myself from any theoretical right of striking the Government.

Mrs. SCHROEDER. Let me ask one more question and then I will submit the rest of them because they are fairly technical.

Would all of you at the table be happy with title VII of the Civil Service Reform Act if non-U.S. citizens were included in the Panama area?

Mr. HAMILTON. I believe the question is one which the others will have to answer. I think any answers would have to be taken in the light of everybody wants the best they can get. They would not be convinced——

Mrs. SCHROEDER. Including the taxpayer?

Mr. WALL. We are also taxpayers.

Mr. HAMILTON. They would not be convinced that it was the best possible. They would not be convinced that it was the best, most desirable. But if it was the best that they could get——

Mrs. SCHROEDER. Doesn't it basically seem the fairest when everyone in the United States is under that?

Mr. GRAHAM. We could answer that by saying it was never fair for us to be under it before. Why are we being pointed out and compared with Federal employees in the States now? We have not been allowed to be under Executive Order 10988 on an exclusive level. We have been refused 1191 now for practically 3 years. And now we should compare ourselves with Federal employees in the United States.

We do not agree to that. We feel that as a unique organization we cannot. Also, there have been times when our employees have been victimized by the company when they start to run into financial difficulties. The question that you asked in the sense of the Central Labor Union and Metal Trades Council would be "no". Title VII with the removal of the alien clause would not be enough.

We would also wish to bargain for wage areas, not wages but wage areas, because we have found in the past that if the company gets themselves in a financial bind, the wage areas suddenly change, downward of course.

Right now we are faced with a very serious problem with the schoolteachers going to DOD. They are on the Washington, D.C. pay base and I am willing to bet 6 months' pay that they are going to take them off the Washington, D.C. pay base and put them on the DOD pay base which is \$8,000 a year less and they will wait until the year 2000 to get a raise.

Mrs. SCHROEDER. Did I hear you say that because you were not allowed the full rights of American Federal employees that were on the State side now, you should not be put under it? Is it kind of reparation?

Mr. GRAHAM. No. There is a feeling of resentment about it. This comparison comes up all the time. You are a Federal employee, why shouldn't you be happy with what the other Federal employees have gotten. We never got the benefits in the past so why should we be compared with them now?

Mrs. SCHROEDER. I see.

Thank you.

The CHAIRMAN. Mr. Corcoran?

Mr. CORCORAN. Thank you, Mr. Chairman.

I would like to question both Mr. Wall and Mr. Hamilton about two aspects of the issues before us.

First of all, as I understand your testimony, you have pointed out that under the current situation the Governor of the Canal Company, pretty much by fiat, makes the decisions regarding wages and benefits. Yet I think the thrust of your overall testimony here this morning is that you would like the Congress to put into statute some guidelines and some principles governing the future labor-management relations.

As I understand the overall context of the Panama Canal Treaty, the people of Panama and the Panamanian Government asked for the canal.

What you are asking us to do seems a little bit unfair. You want us to impose upon the new arrangement some conditions which would be far better and far more expensive than is currently the case.

How can you justify that, especially when you consider that Panamanian labor law, as I understand it, is a good deal different from American labor law?

Mr. HAMILTON. I am not quite sure I follow completely the thrust of the question, or the statement, whichever it may be. But if I understand what you are asking, it is that why do we propose that there be legislation spelling it out when perhaps it may differ from Panamanian law and when perhaps it may result in some cost feature?

Mr. CORCORAN. And when it might be a good deal different from the present guidelines and requirements governing labor-management relations.

Mr. HAMILTON. All right, sir.

First of all, we have a different creature and that is, as I pointed out earlier, you have neither the United States nor Panama in



complete control. You have instead the Commission operating under the treaty and the implementing legislation in the geographic area of the Republic of Panama. Politically, this means that the climate is not like anything else anywhere in the Federal system.

Second of all, you have an instrumentality which is vital to our country which must be preserved. We have a nation which will after the year 2000 be operating it. We need to establish and provide and work with them in the establishment of the base so that for so long as the United States needs the canal, it will be there.

Third, we have the situation of Americans who are down here, other nationals who are here, and Panamanian nationals, all working in this one melting pot. We need, if they are going to be so integrated in their operation as to be side by side, that there be uniformity in the provision applicable to them.

Thirty years of experience in the field of labor law has shown me that the greatest cause of problems is for there to be differences in the treatment of people doing the same job.

For that reason, then, there must be a uniform system. Whose system is it to be? The Federal Government's system, the Panamanian system, or one which is tailored to meet the problems which exist, the realities, the economics and the political situation as we are in. This is what we are urging. This is why we ask that Congress address itself. This is why it is not to be left to the administrative process which has already taken a tremendous amount of time without reaching agreement.

Mr. CORCORAN. I can understand why, from the standpoint of the employee, a unified, cohesive, statutory system would be better, but the question and the concern I have is that we are going through a transition period in which the responsibility will be turned over to a new entity, the Panamanian Government, and you want us, in that process, to impose upon them obligations which they may or may not want and may or may not be able to handle.

Mr. WALL. Let me see if I can try that one also.

On pages 5 and 6, I think, is what you have directed the question at. We have described how the authority of the Governor to set the wage patterns works. We have termed it a hodgepodge. We then say that this has come about in our estimation by a carryover from the gold and silver days and that we tried to straighten that out and did have some success in applying the minimum wage.

At this point, why turn over this hodgepodge to the new entity that is coming in? We have a chance to make a break and set up a pay scale that has some rhyme or reason to it. In comparison to what a mate or a captain with their ability can make on a merchant vessel with a U.S. flag, there is no comparison to the wages that are paid here.

So why turn over a mess? Why not at this point legislate it, and not through a fiat of some type. Let's set the record straight and turn over a clean document rather than this mess that we think that we have?

Mr. CORCORAN. The other aspect of the subject matter before us that I would like to ask you about again concerns the question of who is going to pay the bill for this package of legislation which is pending before our committee.



As Governor Parfitt has testified, he believes that the general revenues in the U.S. Treasury should be used to pay this bill. My colleague, Congresswoman Spellman, along with others, feels that the retirement system should not be ripped off in the process of trying to pay this bill.

I just wonder if there might not be another approach which we could consider and that is to look at the possibility of the Canal Company itself, no matter what its new name might be, paying for these benefits and recognizing that the Congress need not appropriate funds for the budget or the employees and the operations of the Canal Company. I am suggesting that, out of revenues or through some bonding procedure, the assets and the entity which is going to control these assets during the transition period and subsequently be empowered with the responsibility to develop the funds to pay the bill for the legislation that is before us.

That way we could honor the commitment that President Carter made to the American people that there would be no taxpayer funds involved in this new treaty.

What would your reaction to that be?

Mr. WALL. We realize that we have an administration approach and we have Congressman Jack Murphy's bill. I don't think on our part either the NMU or AFL-CIO Maritime Committee, that we have made the analysis that would allow us at this point—I did not come prepared from New York to Panama on that phase of the operation.

You know we can all be for God and motherhood and the flag and nobody wants to touch the retirement fund. The Governor is perfectly expert in the field and if he feels that general revenues should provide some of the costs—we in the maritime industry have been very concerned over the past number of years with the increases in tolls. We are also concerned over the limiting size of the canal. The size vessel that can get through this canal is not an economical vessel for a shipowner to build.

We have wondered in the past whether the shippers who use the canal should have an obligation to pay for the hospitals, to pay for the clubs, to pay for the police, the fire department, and all the other things that we have said are part of it.

If I want to use a canal or a waterway or a dock, I expect to pay for that facility, the cost of it, interest on the payments, and the rest of it. But I don't know that I would want to pay for other parts of the operation.

It has been our contention in the past, and it has never been successful, that perhaps some part of this Canal Zone Government operation should have been paid for out of the general Treasury of the United States. Perhaps had that been, some people might not have been so concerned about the giving away of the zone.

But there are other costs here, the cost of the bridge across the canal. I don't know whether a ship going through the canal is concerned about the upkeep of a bridge that gets people from one side to the other.

I don't know what the Panamanian Government is going to do with that problem. If they put a toll on, they are in trouble. If they don't put a toll on, where is the cost going to come from—the Treasury of Panama? Certainly, if they put a toll on, which might

be a logical thing, they are going to say as long as Uncle Sam ran the operation there was no toll. As soon as we take it over, we put a toll on it. That is their dilemma.

Mr. CORCORAN. I just raised the question and I don't expect a definitive reply at this point, but I think that your organization has the capacity to look into this, given some time to do so. I serve with Mrs. Spellman on the subcommittee which will be dealing later on next month with this subject. I think it is a line of inquiry and a line of possibility that we should pursue.

We are going to look at it. We would welcome your reaction to it at a later date.

Mr. WALL. Tal Simpkins will develop the answer to the question. All the questions will be answered to our fullest capabilities that the committee has.

The CHAIRMAN. Thank you, Mr. Corcoran.

Mrs. Spellman?

Mrs. SPELLMAN. Thank you, Mr. Chairman.

I just wanted to pursue a little bit of what was said here a bit ago about why should we be treated differently here or why should we not be treated differently here?

I really expected it was going to be the other way around: How come we are different, why can't we be like everybody else.

Let me point out that you are talking about Executive orders. All the legislation pertains to you just as it does to any other Federal employees, does it not?

Mr. GRAHAM. The legislation provides for title VII to be set aside.

Mrs. SPELLMAN. To be set aside in this case. Don't you get the same pay, the same leave, the same rides home, and so forth that all other U.S. citizens working in foreign countries get?

Mr. GRAHAM. No.

Mrs. SPELLMAN. You do not?

Mr. GRAHAM. No.

Mrs. SPELLMAN. That is different.

Would you submit for the record which provisions of title V you don't fall under?

Mr. GRAHAM. We have the Canal Zone wage base here. Any of my craftsmen that are below the MG-10 cutoff are on a completely different Federal wage base. That is one example. Our leave is different and that is another.

Mrs. SPELLMAN. That comes about through Executive order?

Mr. GRAHAM. I don't know how it came about, but the Ramon-Eisenhower Treaty provided for the wage basis, how the leave system was devised. That was long before my time.

Mrs. SPELLMAN. If you would, gather for us the information on where you fare less well than others.

Mr. GRAHAM. Well, the issue at hand, Mrs. Spellman, was collective bargaining. That is what we were zeroing in on there, not so much the overall Federal benefit. Certainly we enjoy benefits other employees get. There is no question about that. But the collective bargaining issue has been giving us heartburn for many, many years.

Mrs. SPELLMAN. You feel you would be ill served if you got the same collective bargaining rights as all other Federal employees?



Mr. GRAHAM. Well, that is a very good question. I think I would like to answer it this way: If we had to fall back to an entrenched position, I think we would be glad to accept title VII with the alien clause removed because it is better than nothing and nothing is what we have.

But naturally we will attempt to get something a little bit better because of the uniqueness of the Panama Canal operation.

Mrs. SPELLMAN. I understand exactly what was meant by Mr. Hamilton when he says everybody wants to get the best that can be gotten. I hope that you recognize our position, too. We would hope to get the best we can get but we may have a very, very difficult time in getting anything passed in the House.

So that the more embroidery we put on this, the less likelihood of being able to get something through. We have been very, very careful of just how much we do put on this.

I might point out, also, that when we are acting on the implementation of this particular treaty we are setting some precedents that may face us in Taiwan. We are setting precedents that may face us in implementing the Bureau of Indian Affairs legislation.

So we are not acting in a vacuum, you know. This is not the only situation that we will be facing and we are going to have to be pretty careful.

I wanted to ask Mr. Wall, if I might, how long is it that nationals have been receiving equal pay for equal work?

Mr. WALL. 1955-56.

Mrs. SPELLMAN. Mrs. Schroeder says longer than women have.

Mrs. SCHROEDER. We still haven't made it.

Mrs. SPELLMAN. I was puzzled. On pages 4 and 5 you go into the salaries here. When I recognize that there is a 75 cents minimum wage for most people in the Canal Zone, then I say with the prices that you are quoting, how do other people make out? How do other Panamanians do, and are we creating the haves and have-nots here?

Mr. WALL. The 75 cents an hour minimum wage?

Mrs. SPELLMAN. Yes. Or is it 80? I was told it was 75 cents.

Mr. WALL. That is in the Republic of Panama. You drive through the back streets of Panama, you see the housing that they are living in. That is the way they are living under their standard of living.

Mrs. SPELLMAN. It really makes quite a difference, then, doesn't it?

Mr. WALL. It certainly does.

Mrs. SPELLMAN. Mr. Werner, I am back to one of the things, one of the basic problems that I have with all of this. We need the pilots, you have convinced me of that, and we need you desperately. Then why are we offering early-outs? Why are we making it possible for you to leave us? We need you. We should instead, I think, be making it as attractive as we can for you to stay and making it as hard as we can for you to leave.

Captain WERNER. Speaking from a personal standpoint, the attraction for staying here rather than working at the United States at 50 percent more pay is the early option to retire at a reasonable time.

Mrs. SPELLMAN. Somewhere down the road maybe?



Captain WERNER. Perhaps if I am not too old by the time I retire here. As you are aware, there is a RIF that has been extended to people in the Canal Zone. People I represent are standing by to see what retention incentives are going to be provided and make their decision whether or not to take it. There is quite a few factors that come into play in each individual situation.

So I talked mostly to the point of the mid-career pilot such as myself. If the early option retirement is provided, I will stay here another 7 years and continue providing my services as a senior pilot to the Panama Canal Agency. If it is withheld, I am going to resign and go elsewhere and work at a higher rate of pay.

Mrs. SPELLMAN. When you say the early option, you are referring to down the road; am I right about that?

Captain WERNER. In my particular circumstances, yes. There are people now that may be eligible for it, but there, again, the individual circumstances dictate whether or not they will accept it.

I heard on the news this morning that 7,000 people in Iran are having an evacuation and yet a lot of people will remain there. I think the stimulus to leave Iran is a heck of a lot stronger than to stay here with an increased annuity in the legislation.

So it all depends on the individual circumstances. Hopefully, we will be able to retain enough experienced people to have a minimal impact on shipping going through the canal.

Mrs. SPELLMAN. If I had been with OMB, I would not at this point say you can have early out. I would have said no, we need you, and when we need you we don't grant early out to give you the incentive to leave. But we will add to your retirement with each year that you stay, we will give you benefits if you stay on with us. And then down the road after we have had an opportunity to train additional people, et cetera, if you want to avail yourself of those benefits, then you would have been far better off because you stayed with us.

I think that is the way I would look at it instead of making it easy for you to leave and at the same time try to keep you to stay.

Captain WERNER. I agree with your theory, although I don't agree with the part about further down the road. I think there are two paths here. You can withdraw the early retirement legislation and we are going to have a lot of negatively motivated individuals continuing on until they can retire.

Mrs. SPELLMAN. Are they going to wreck the ships?

Captain WERNER. Hopefully not. Midcareer pilots will be resigning and going elsewhere. The difference between those that can go under the present RIF which was already offered and the additional number that could go under the implementing legislation early retirement is minimal. It amounts to just slightly more than actually the pilots that resigned last year.

So we feel that your theory of providing additional incentives is wonderful, but we also want to know that we have this end in sight when we can leave and those people who do want to leave can leave now.

Then I would say if it does create a problem, then we can talk about additional retention incentives.

Mrs. SPELLMAN. I would like to pursue that with you.

The CHAIRMAN. Thank you, Mrs. Spellman.

Are there any further questions? If not, gentlemen, our appreciation for your appearance and your participation here this morning. Mr. WALL. Thank you for your attention.

The CHAIRMAN. Our next witness, representing the American Federation of Government Employees, Mr. Jim Lynch. He is international vice president. Accompanying Mr. Lynch is Mr. James O'Donnell as president of AFGE Local 14.

Also testifying we have Mr. David Baglien, first vice president of AFGE Local No. 14.

**STATEMENTS OF JIM LYNCH, INTERNATIONAL VICE PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFGE), ACCOMPANIED BY JAMES O'DONNELL, PRESIDENT, AFGE, LOCAL 14; DAVID BAGLIEN, FIRST VICE PRESIDENT, AFGE, LOCAL 14, AND BARBARA CORSON, PRESIDENT, NURSES ORGANIZATION, CANAL ZONE, AND WOMEN'S COORDINATOR, AFGE**

Mr. LYNCH. We are fortunate to have with us this morning Mrs. Barbara Corson who is president of our nurses organization in the Canal Zone. She holds another title for the 15th district. She is the women's coordinator for AFGE which covers all of our overseas unions.

The CHAIRMAN. Welcome. We look forward to your testimony. Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman and members of the committee. It is an honor and privilege to be here today. When I walked in this building, I thought I was back in Washington at the Cannon Office Building.

The 15th district is responsible for representing at the national level the interest of the Federal employees in those overseas installations where we have been selected as exclusive collective bargaining agents.

Among those overseas installations are the facilities in the Panama Canal Zone which have become the subject of the treaties of 1977 between the United States and Panama. At those installations we have the privilege to speak for approximately half the Federal employees who are U.S. citizens and for many who are Panamanian nationals.

I would like to thank you, Mr. Chairman, for the promptness in having these hearings here and bringing it to the people in the Canal Zone and afford them the opportunity to speak to you and the members.

I would also like to thank Mrs. Spellman for her committee action and having the hearings March 8.

I also understand Congresswoman Schroeder is going to have meetings, too. I submitted requests to appear before your committee and we are looking forward to appearing before the subcommittee in Washington, D.C.

As in the past, with the House Post Office and Civil Service Committee, and the wisdom of you ladies and gentlemen, we are looking forward in Washington to meeting with you and your staff people and resolving any problems, if there be some, and I imagine there may be one or two, but we look forward to working in these problem areas with you and your staff people.



The CHAIRMAN. If the gentleman will yield, we appreciate the continuing communications we have with you, Jim Lynch, in Washington. As you say, we see a great deal of each other. I personally appreciate your input on a continuing basis. I have a very decent handle on your attitude toward this particular issue as I believe do all of the members sitting at this table.

We will look forward to a continuation of that activity in Washington and certainly look forward to the hearings there that you have already alluded to.

Mr. LYNCH. I am pleased to have this opportunity to appear on behalf of our national president, Kenneth T. Blaylock, and to present his testimony to your committee.

President Blaylock's testimony is of particular significance, in my opinion, because it incorporates the views of our national convention and of our 18-member national executive committee, speaking for all AFGE members. Further, it is based on the understanding reached by President Blaylock with the White House and with the representatives of the Carter administration of their undertakings regarding the passage of Public Law 95-454, the Civil Service Reform Act of 1978. It also reflects the understandings our union has gained from the readings of the texts of the 1977 treaties with Panama, and the separate commitments made to U.S. nationals and to Panamanian nationals in the transfer of sovereignty from the United States to Panama over the territories where these employees are located.

For my part, I concur fully with President Blaylock's testimony and feel it a special privilege to be able to represent him in the expression of these views.

I ask that the full text of President Blaylock's statement be made a part of the record. With that, I shall commence with its presentation.

**STATEMENT OF KENNETH T. BLAYLOCK, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AS PRESENTED BY JAMES H. LYNCH**

I appreciate the opportunity to have my statement entered before your committee in connection with two bills: H.R. 111 and H.R. 1716, both of which are concerned with implementing the treaties of the United States, 1977, with the Republic of Panama.

Because that is the purpose of both these bills, I should like to review with you the terms of the treaties, insofar as they affect employee rights and labor-management relations, and, concurrently, the provisions of Public Law 95-454, enacted October 13, 1978, which altered some of the rights and duties of all Federal employees and instituted a statutory basis for labor-management relations in the Federal service. Both the treaties and Public Law 95-454 are pertinent to those provisions of these two bills which concern employment and labor-management relations.

In bill H.R. 111, all of chapter 3, including all subchapters I through VII are affected. In bill H.R. 1716, all of title III, including chapter 1 and chapter 2, are directly implicated in the provisions of both the treaties and Public Law 95-454.

For the sake of simplicity, I should like to begin with the discussion of Public Law 95-454 and, having examined its relevance to



employment practices and labor-management relations, proceed to the treaties themselves.

PUBLIC LAW 95-454—CIVIL SERVICE REFORM ACT OF 1978

The enactment of Public Law 95-454 on October 13, 1978, when President Carter signed this legislation, fundamentally altered the status, rights, and duties of Federal employees, established new institutions to safeguard and implement these and, finally, provided a statutory basis for labor-management relations.

In establishing these new purposes, the Congress provided two definitions of "agency" in Public Law 95-454, the first appearing in section 2302(a)(2)(C) and the second appearing in section 7103(a)(3). It is the latter definition which concerns us in the area of labor-management affairs. I attach as annex I<sup>1</sup> a reproduction of the passages which I shall discuss hereunder.

Under that latter definition, it appears to us clear that all present employees of the Canal Company and Government as well as all employees of all Federal departments or agencies in the Canal Zone now and later, under the treaties in the area of Panama "made available to the United States," are entitled to the benefit of the provisions of title VII of Public Law 95-454, unless specifically excluded by that law.

The governing provision affecting these employees specifically is that all the Federal employees are entitled to title VII excepting, and I quote, the following: "7103(2)(B)(i) an alien or noncitizen of the United States who occupies a position outside the United States."

Other exclusions, not at issue here in either bill H.R. 111 or H.R. 1716, are members of the uniformed services, supervisors and managers, and Foreign Service personnel of the Department of State, the Agency for International Development, and the International Communication Agency.

Under these definitions, it is clear that all U.S. citizen employees of the Company, Government, and of all other Federal agencies in the Canal Zone are now already under title VII which governs labor-management affairs. Consequently, the order issued by the Secretary of the Army regulating labor-management relations no longer had legal validity, from the effective date of Public Law 95-454, which was January 11, 1979, since it had been superseded by title VII.

It could be contended, though we ourselves are not here pressing the point, that all alien employees—that is, persons not U.S. citizens—also come under title VII, for the interim period while the treaties are not yet in force, on the claim that the Canal Zone is U.S. territory until sovereignty passes to the Republic of Panama.

Whatever the status of employees who are not U.S. citizens, however, it is manifest and uncontested that all U.S. citizen employees are now under title VII and, unless Public Law 95-454 is set aside, shall remain under title VII following the date when the territory comes under Panamanian sovereignty by action of the treaties of 1977.

<sup>1</sup> Not reprinted.

For these reasons, basing our views on Public Law 95-454, we are opposed to the provisions of subchapter VII of bill H.R. 111, and section 142(c) of bill H.R. 1716, both of which are designed solely to deprive U.S. citizens of employee rights enjoyed by all other U.S. citizen employees of similar classification located anywhere else in the world, including every other foreign country.

Certainly, the undertakings made by the administration when seeking senatorial advice and consent did not suggest that there would be such outright discrimination practices against American citizens, solely, for working in this area when all other American citizens, who are not uniformed personnel or who are not in the Foreign Service, are entitled to the protections of title VII, no matter where they work.

The American Federation of Government Employees, AFL-CIO, has discussed the provisions of title VII in hundreds of hours of meetings with executive branch and legislative branch officers and employees. At no time was there any reservation or stipulation expressed in any of these meetings regarding the nonapplicability of title VII to U.S. citizens located in the Canal Zone or in Panama.

We would consider any effort to deprive these U.S. citizen employees of the rights for which they have waited so long and which they now enjoy as a breach of faith by this administration.

There are other arguments, equally weighty, which I should like to adduce under the provisions of the 1977 treaties.

#### PROVISIONS OF THE TREATIES REGARDING EMPLOYMENT

The treaties of 1977 make a clear distinction between the rights of U.S. citizen employees and those of Panamanian nationals working for the Canal Company/Commission. The latter are to displace the former in the course of time, thus setting up a legal discrimination in favor of one group and against another.

This circumstance confronts both management and labor with fundamental dilemmas in the area of labor-management relations. Over and above the obvious conflict of interest which resides in management and in labor in the classic management-labor relationship, resulting in the exclusion of supervisory and management employees from union representation, the treaties inject further conflicts of interest into the unionized labor force itself, distinguishing between, and discriminating among, them on the basis of citizenship.

This conflict of interest takes two forms—legal and factual.

Legally, the treaties require that the U.S. citizen employees are to be replaced by Panamanian employees over a course of time. Moreover, the remedies which U.S. citizen employees are to obtain for any losses they incur during this displacement are to be satisfied exclusively by U.S. authorities. On the other hand, the remedies which Panamanian national employees, who might be displaced incidental to the treaties' operations, are to be satisfied, in some cases, by the U.S. authorities and, in other cases, by the Panamanian authorities. However, these remedies are not commensurate in procedural or factual terms, creating differences in community of interest among the United States and Panamanian employees.



Procedurally, the U.S. citizen employees will have available all the U.S. constitutional and statutory processes, both administrative and judicial. The Panamanian citizen employees will have available only the treaties and the support of the Panamanian Government.

Factually, the Panamanian employees expect to improve their position primarily, if not exclusively, by displacing U.S. citizen employees in those positions which will remain available, both in matters of job retention and promotion to higher grades.

Given human strivings to advance competitively, the one set of employees perforce will be seeking to hasten this process of transition to its advantage and the other set will be seeking to retard it. This is not a community of interest. It resembles, if an analogy may be drawn from marital life, the conflict of a prospective divorce of husband and wife rather than the community of interest of the parties.

As in any situation involving conflict of interest, the safest and most rational posture is to face the facts openly. We hold that both the U.S. employees and the Panamanian employees should have the same rights vis-a-vis management. We regret the treaties do not permit them the same rights vis-a-vis each other as employees. For this reason, though most reluctantly, we bow to the situation that the treaties do in fact purposely and radically discriminate against U.S. citizen employees and in favor of Panamanian national employees. To avoid misconceptions and misunderstandings in the future, we believe that it is in the best interests of all the parties at the outset to reconcile themselves to this fundamental fact and to seek to mitigate its impact insofar as the treaties do not provide insurmountable obstacles.

We do not find rational the presumption of a situation where a minority of Panamanian employees in the same bargaining unit as a majority of U.S. employees can feel secure that the self-interest of the U.S. employees will not be prejudicial to them. Similarly, we do not find rational the presumption of the reverse situation, where a minority of U.S. citizen employees will feel secure that the motivations of the majority of Panamanian employees to accelerate their displacement will not exist.

Our concerns do not arise out of prejudices due to national origin. We have had no such problem in the past in the Canal Zone and we have no such problem in the United States itself in situations where the laws clearly forbid discrimination on the basis of national origin. However, the treaties positively require this discrimination in favor of one class of nationals and against another class and we are only being realistic to draw the objective, practical consequences of such a legal requirement to discriminate.

Because of the importance of this issue, I should like to review with you the provisions of the treaties which are the real core of the dilemmas which I have been describing. I believe that, on the basis of this review, it will become clear that the most prudent system is to apply at the outset, two separate but equivalent and parallel systems of collective bargaining, one for all U.S. employees, whether they work for the Company/Commission or for other U.S. agencies, and one for all employees who are not U.S. citizens



and who work either for the Company/Commission or other U.S. agencies.

#### THE LIMITATIONS ON THE RIGHTS OF U.S. EMPLOYEES UNDER THE TREATIES

The rights of U.S. employees of the Commission and of the Armed Forces are separately set out under article III—Commission—and article IV—Armed Forces—of the treaty and the implementing international agreements drawn up in consequence of those two articles. (Article IV is sometimes described as the "Status of Forces Article" because of the supplemental implementing international agreement which is based on it.)

These two articles superficially appear to make a distinction in the rights between U.S. employees of the Commission and of the armed services. In fact, no significant distinction applies. The main difference relates to the commissary rights of U.S. citizen employees of the Armed Forces and, because of these commissary rights, the eventual restriction of U.S. citizen employees of the Armed Forces to residence in locations defined as "defense sites and such other areas."

Procedurally, but not substantially, a distinction is made between these two categories of U.S. citizen employees because two separate U.S./Panamanian liaison bodies will be established for resolving personnel matters, one for the Panama Canal Commission and a separate body for the Armed Forces. All Commission personnel matters will fall within the jurisdiction of the coordinating committee established under article III of the treaty and article II of the relevant implementing international agreement. All Armed Forces personnel matters will fall under the separate jurisdiction of a separate joint committee, established under the implementing international agreement pursuant to article IV of the treaty. Neither of these should be allowed to impinge on the rights of labor organizations in dealing with management since these coordinating functions will relate specifically to issues of quasi-diplomatic agreements regarding management policies and not to specific labor-management agreements pursuant to policies in the area of employment incorporated in the treaties.

The employment rights of all U.S. citizens are defined and limited by several other articles of the treaty and by several implementing agreements. Particularly important is article V, "Principle of Non-Intervention," which requires that the U.S. nationals "refrain from any intervention in the internal affairs of the Republic of Panama." These internal affairs can relate, of course, also to the conditions of employment of Panamanian nationals, to the nature and status of the Panamanian labor unions, and to Panamanian social security systems and taxation. Thus this article places U.S. citizen employees in potential jeopardy if they are represented by unions whose members are subject to Panamanian law.

Particularly relevant is paragraph 5 of title X, requiring the periodic rotation, "at a maximum of 5 years, of U.S. citizen employees and other non-Panamanian employees, hired after the entry into force of this treaty." The purpose of this is to assure that seniority and career ladders are not established for U.S. citizen

employees to the detriment of Panamanian nationals who need not be rotated. Thus it clearly establishes a conflict-of-interest category based on citizenship.

Articles in the implementing agreements clearly show that the Status of Commission Employee Agreement—SOCEA—and the Status of Forces Agreement—SOFA—are identical in placing express limitations on the employment rights, status, and tenure of U.S. citizen employees. They are also identical for placing these employees under criminal jurisdiction of the Panamanian State in certain areas, including custody in Panamanian jails of those charged with murder, rape, robbery with violence, trafficking in drugs, or crimes against the security of the Panamanian State.

The implementation agreement to article IV of the treaty—status of forces agreement—repeats as article II of that agreement the text of article V of the treaty regarding the principles of nonintervention. Thus, the similarity of legal status of U.S. citizen employees of the Armed Forces to U.S. citizen employees of the Commission is expressly emphasized. Article VII of the implementing agreement to article IV of the treaty stipulates that the same ratio of Panamanians to total employees will apply as defined in the Panamanian law regarding foreign company operations.

I could cite additional passages in the treaties and implementing agreements but I believe they would be redundant since the weight of these texts clearly establishes that the U.S. citizen employees have narrowly circumscribed and limited rights.

#### AFGE INSISTS ON THE MAXIMUM RIGHTS OF PANAMANIAN NATIONALS VIS-A-VIS MANAGEMENT

I want to make it absolutely clear that we are asking for the same rights to be given to the employees of Panamanian or other nationalities in labor-management relations as we are asking for employees who are U.S. citizens. At the minimum, insofar as the treaties themselves do not preclude these rights, they should be equivalent to title VII of Public Law 95-454.

We would prefer more, of course. Title VII does not give any Federal employees the same rights as private enterprise employees in the United States have. But it is a great advance over the old system of Executive orders. At least we now have a statutory platform from which we can apply a lever to acquire rights and conditions of work through collective bargaining for Federal employees which gradually will make their status somewhat like that of private enterprise employees.

We will support totally all the unions in the AFL-CIO and, with them, will insist that Panamanian nationals who are employees either of the Commission or of the U.S. agencies have the same rights as U.S. citizen employees. We do this while at the same time noting that it is the treaties themselves which make it impracticable in most cases for all employees, regardless of citizenship, to be in the same units in order to effectively exercise these same rights without the interjection of conflicts of interest among them.



SPECIAL PROTECTIONS FOR FEDERAL EMPLOYEES ENTITLED TO  
PLACEMENT WITH AGENCIES IN THE UNITED STATES

Although certain Panamanian national employees are entitled to special consideration for immigration into the United States, the treaties do not give them any rights to guaranteed employment in the United States. At best, former employees of the Company/Commission will be placed with other U.S. agencies located in Panama, so far as employment rights are concerned.

U.S. citizen employees, on the other hand, are entitled to certain employment rights in the United States. Our concern is to assure that they will be able to enjoy these rights in a timely fashion. Therefore, I should like to solicit your committee's support for express legislative language they can cite when seeking to avail themselves expeditiously of these rights, especially in a potential situation where there may be cutbacks in Federal employment in the United States itself.

The rights of which I speak are not disputed by the administration. In fact, FPM letter 380-12, dated December 29, 1978, addresses them directly. Entitled "Placement Assistance for Panama Canal Zone Employees," the letter sets up certain high priorities for their assistance. I attach a reproduction of that letter as annex II<sup>1</sup> as evidence that there is no disagreement between us and the executive branch regarding these placement commitments.

Our concern is that the envisioned program does not go far enough in providing a statutory basis for these rights, and that it does not provide the resources or the personnel to enforce it expeditiously. Therefore, we should like to solicit your support for an amendment to bill H.R. 111 and/or H.R. 1716 to establish an office of the Special Counsel of the Merit Systems Protection Board located in the offices of the Company/Commission where Federal employees can have direct access to officials cognizant of their rights and able to require their enforcement.

A SUGGESTED AMENDMENT TO H.R. 111/H.R. 1716

I should like to ask your indulgence to permit me to enter as an attachment to my statement a draft of a proposed bill, which would establish such a procedure and office. I have had it drafted as a separate bill but it could easily be made a part of H.R. 111 or H.R. 1716.

Basically, what the draft bill states is that for 5 years any U.S. national who was employed by the Canal Company or Government before the entry into force of the treaties shall be entitled preferentially to obtain employment at the same grade, career ladder, and pay in the United States. The remainder of the bill establishes and funds the machinery for carrying out this provision, locating it formally in the office of the Special Counsel of the Merit Systems Protection Board established under Public Law 95-454, portions of which I have already cited on previous occasions in this testimony.

---

<sup>1</sup> Not reprinted.



## OTHER AMENDMENTS

You will be receiving proposals for specific other amendments which will be presented by AFGE local union representatives speaking for employee units which we represent. I endorse their proposals completely and commend them to your special consideration because they are all designed to improve the efficiency and morale of the employees who will be recruited to remain in the employment of the Commission or other Federal agencies after the treaties come into force. I shall not repeat these petitions at this point of the hearings, except to say that they have the complete support of our union.

## CONCLUDING STATEMENT

I am most grateful to your committee for accepting my statement and for your kind reception of National Vice President James Lynch and of the presidents of the locals who are appearing before you.

I look forward to presenting my own further testimony to you personally in Washington when you hold hearings there.

In the meantime, I wish to assure you of the fullest cooperation of myself and my staff in your addressing the complex problems and resolving the dilemmas which now attend this implementing legislation.

Please accept my best wishes for a productive session and for a safe journey back to Washington.

[The draft bill follows:]

**DRAFT BILL** To provide that United States nationals employed by the Panama Canal company or Canal Zone Government shall be entitled to be placed in civil service positions, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) any U.S. national employed by the Panama Canal Company or Canal Zone Government before the entry into force of the Panama Canal Treaty shall, during the 5-year period beginning on the date of the enactment of this Act, be entitled, upon request or upon termination of employment with the Panama Canal Company, the Canal Zone Government, or the Panama Canal Commission to be placed in a position in the competitive service or a position in the Senior Executive Service held by a career appointee in any Executive agency (within the meaning of section 105 of title 5, United States Code).

(b) any individual entitled to be placed in a position under subsection (a) shall be placed in a position—

(1) having the same grade and pay, and

(2) having the same duties and responsibilities and, to the maximum extent feasible, the same qualification requirements,

as the position held by such individual before being placed under this section.

(c) Notwithstanding any other provision of law, an individual entitled to be placed in a position under subsection (a) shall be granted preference in placement in any position over any other individual granted any other preference or advantage under any other provision of law.

**Sec. 2.** (a)(1) The Special Counsel of the Merit Systems Protection Board shall establish a separate office to receive and investigate complaints from any individual with respect to placement in a position to which he is entitled under subsection (a) of the first section of this Act.

(2) The office established under paragraph (1) shall—

(A) be located in an area which is made available to the United States by the Republic of Panama under the Panama Canal Treaty or any agreement with respect thereto and which is accessible to individuals affected by this Act, and

(B) be composed of—

(i) 2 attorneys who shall be paid at a rate of pay not in excess of the maximum rate of pay for GS-15 of the General Schedule,

(ii) an administrative assistant, and

(iii) 3 clerical personnel.

(b)(1) If, after any investigation under subsection (a), the office determines that—  
(A) an individual entitled to be placed in a position under the first section of this Act was not so placed, or

(B) an individual was placed in a position which does not meet the requirements of subsection (b) of such first section,

the office shall report its determinations to the Special Counsel.

(2) If the Special Counsel concurs in the determination made by the office, the Special Counsel shall refer the matter to the Merit Systems Protection Board and shall notify the Congress of such referral.

(3) If the Board concurs in the determination, it shall order the Office of Personnel Management to place the individual in an appropriate position.

(c)(1) The office shall report each quarter to the Comptroller General of the United States, and arrange for an audit of the office before the close of the first year in which it is in operation.

(2) The Comptroller General shall, after the audit conducted under paragraph (1), report to the Congress with its recommendations with respect to the staff and other needs of the office.

SEC. 3. There is authorized to be appropriated, without fiscal year limitation, the sum of two million dollars to carry out the purposes of this Act, except that not more than 650,000 dollars may be expended in the first fiscal year in which such money is made available.

The CHAIRMAN. Mr. O'Donnell.

#### STATEMENT OF JAMES O'DONNELL

Mr. O'DONNELL. My name is James J. O'Donnell, president of local No. 14, American Federation of Government Employees. Because local No. 14 is the largest of the several unions representing principally U.S. citizen employees, my comments today will reflect principally the viewpoint of United States employees.

Although there are points of disagreement among the various unions representing both U.S. and non-U.S. citizen employees, essentially regarding collective bargaining, there are distinct broad areas of agreement on most issues relating to the treaty.

Even though I will confine my testimony to the effect of the proposed legislation on my own members, I assure you that AFGE local 14 fully supports the aspirations of the other unions for the legislation required to carry out those treaty provisions that insure that "conditions of employment will be no less favorable than at present."

With the ratification of the treaty, an established fact, we must now face the question of how to keep the canal running at top efficiency under new and very different conditions. The key to that question, as Governor Parfitt and many of his predecessors have recognized, is the work force. Governor Parfitt has demonstrated his concern for the work force by going to bat for us during the treaty negotiation process and during the drafting of the implementing legislation. He has also tried hard to keep us informed. Unfortunately, however, he has to speak through layers of command, and the administration's bill comes to you following a long process of filtration. The result is that you in Congress receive a distorted view of the needs, concerns, and temper of today's canal work force.

In the past, the American Federation of Government Employees has had the opportunity of testifying to this committee on improving protections for Federal employees. Today, the committee, through the sponsorship of H.R. 1716 and H.R. 111 is in the driv-



er's seat, but I would like to present to you what needs to be amended in that legislation in order to assure that the canal's key U.S. citizen employees will stay on the job and willingly train their Panamanian replacements, and that tomorrow's vacancies in hard-to-fill positions will continue to be filled by topflight personnel. In general, the legislation takes care of most of the guarantees on conditions of employment called for by the treaty, but certain essential changes need to be made.

As might be expected certain fears and apprehensions remain in the minds of the employees concerning the eventual turnover of the Panama Canal and the Canal Zone to the Republic of Panama. I am constantly besieged by employees asking, if U.S. employees are expected to remain on the isthmus over the next 21 years, will they and their families be able to lead their lives without fear or the constant threat of harassment? What kind of job security will be afforded, what kind of incentives will be provided for me to stay and train my Panamanian replacement?

These are just some of the questions that workers are asking. Unfortunately, I cannot provide the answers to these questions.

I am relying on this committee and your colleagues in the House of Representatives who will soon be voting on the implementing legislation to provide the necessary safeguards, benefits, and incentives to retain the dedicated employees currently working for the Federal Government on the isthmus, and for those who will be needed to be hired in the future years.

AFGE believes the following considerations are absolutely necessary to improve employee morale and insure the continued effective operation and success of the Panama Canal.

My first point: The employees, without question, need a collective bargaining system. Too often in the past, management has withdrawn benefits won by employees. I offer as an example the action of the former Assistant Secretary of the Army (Civil Works), Victor V. Veysey, in his capacity as Chairman, Canal Zone Civilian Personnel Policy Coordinating Board, deprived many employees of their eligibility for a pay differential and for housing assignment within the Canal Zone.

The end result of this arbitrary management action was a costly job action that resulted in the loss to both shippers and the canal organization of many hundreds of thousands of dollars.

Why did that action even take place? Simply because labor groups were not consulted in good faith on the decisions affecting the terms of their working conditions.

Local No. 14 firmly believes that only through the collective bargaining process and the application of title VII of the Civil Service Reform Act can the rights and benefits earned by employees be protected. We in the labor movement ask that.

On October 13, 1978, President Carter signed the Civil Service Reform Act, designed to improve Government efficiency and to balance management authority with employee protections. Among the major features of the act are an independent and equitable appeals process; protections against abuse of the merit system; and incentives and rewards for good work and skillful management. Some of the provisions of the Civil Service Reform Act took effect here in the Canal Zone in January of this year. The application of



this act to the Canal Zone does not mean that labor has any intentions of reducing management's right to manage. On the contrary, that right is recognized and respected.

All we in the labor movement ask is that true representation for employees be afforded through the acknowledged and long-accepted process of collective bargaining as recognized in title VII of the Civil Service Reform Act of 1978. Local No. 14, AFGE, is requesting that section C on page 30 of H.R. 1716 be deleted, as well as section 225 under subchapter VII, Labor Management Relations in H.R. 111.

Second, the restoring of the tropical differential to the former rate of 25 percent to be effective on October 1, 1979, would be a step in the right direction for those employees who elect to stay and make the treaty work for the good of the United States and world commerce.

Point 3, employees are extremely concerned about the fact that PX, commissary, and postal privileges will be denied them after 5 years. This is correctly perceived as a definite decline in their quality of life.

In Panama, items such as electricity, telephone, et cetera, are triple the cost for like items offered in the Canal Zone. Frequently, the Panamanian economy suffers shortages in necessary staple foodstuffs. Employees ask me, "How will I provide for my family during these periods?" I believe that all U.S. employees should be administratively extended PX, commissary, and U.S. postal privileges until the year 2000.

Ironically, gentlemen, when I brought up this proposal to General Dolvin and Assistant Secretary of State David Popper, they brushed it aside with the comment that this item was locked into the treaty. Strangely enough, however, whenever Panama asks for reconsiderations on treaty matters, we suddenly find the terms of the treaty are again negotiated. I respectfully suggest that what is good for the goose is good for the gander.

Point 4, I would like to quote the specific language from the treaty, article X. It states:

The United States of America shall with respect to the Treaties: (b) \* \* \* seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

It is perfectly clear from the language used in article X that liberalized benefits and liberal calculation of those benefits envisions two separate, specific actions, that is, (1) to provide more generous and liberal benefits than the regulations currently provide in a large scale RIF action, and (2) after the liberalization of benefits has occurred, then a liberal calculation of the more generous benefits must then be accomplished.

One does not have to be an expert in semantics to see this. But, is this in fact, being done? I think not!

I would like to address the questions of the kind of annuity that would meet the requirements of article X. The administration proposes that employees earn an annuity at the rate of 2½ percent of their average 3 years pay for such service as does not exceed 20 years. This is one-half percent more than regulations currently permit.

We propose, on the other hand, that the rate of annuity be computed at 3 percent of the employee's highest 1 year's pay for such service as does not exceed 20 years. With all due respect to the administration's proposal, I do not believe that an additional one-half percent will attract and keep the type of career-minded employees we need.

Quite frankly, we are talking about a new agency that will be out of existence in some 21 years. A 3-percent annuity rate is a desperately needed incentive to improve employee morale, to keep key employees, and to continue the efficiency of the organization during the difficult and uncertain days that lie ahead of us.

For the past 70 years, the health care system in the Canal Zone has provided outstanding services to employees, seamen of the world, and others. Many contributions to medical knowledge have emerged from the Canal Zone medical facilities. Local 14 has been proud of our system of health care and we would like to see it continue on after the treaty.

We are concerned about maintaining the current high standards for physicians and dentists. At the present time the Canal Zone Government has a licensing board in addition to a hospital credential committee. We are interested in keeping the credentials committee active after October 1979.

Local 14 believes that foreign medical graduates should demonstrate a working knowledge in English. They should be required to pass a standard medical exam such as U.S. specialty boards, flex, national boards, or ECFMG. For dentists, ADA National Board and/or U.S. State licenses should be a minimum standard.

Living conditions and the quality of life for all U.S. citizen employees now working in the Canal Zone are in considerable measure related to the availability and quality of medical care. The quality of medical care depends on many things, one of which will be the standards used to evaluate physicians and dentists.

Whether physicians and dentists now employed will remain working under the new organization after October 1979 will depend on the credentials and skills of their newly hired colleagues in the health field. Local 14 believes that the current criteria must be maintained to assure quality care for patients and to retain those physicians and dentists now employed.

Consideration should be given to teachers and railroad employees. Local 14 would like to request that title V, United States Code, be amended to include as creditable service for purposes of civil service retirement system certain periods of service by individuals before the date they were employed by the Panama Canal Company or the Panama Railroad Company.

Title V should be amended to include as creditable service for purposes of civil service retirement system certain periods of public school service outside of the Canal Zone by individuals who become subject to such provisions for public school service within the Canal Zone. We are requesting that teachers and educational administrators be allowed to purchase credit up to 10 years for public school service in the United States.

Local 14 is asking for equity with the District of Columbia teachers who by Federal legislation serve as a standard for Canal Zone



teachers pay and who have had the buy-in option for the past 50 years.

Local 14 is requesting that the Secretary of the Treasury be allowed to transfer to the civil service retirement and disability fund from the Railroad Retirement Account or the Railroad Retirement Supplemental Account an amount equal to the amounts collected from present employees who were employed with a railroad before the date they were employed by the Panama Canal Company or the Panama Railroad Company.

Again, this is no precedent-setting request. Employees of the Alaskan Railroad currently are permitted to do this.

We are asking that the implementing legislation concerning employee benefits and protections should be extended to the employees of all U.S. agencies conducting operations on the isthmus. It is an accepted fact that the Panama Canal Treaties of 1977 will cause serious disruption in the everyday lives and welfare of workers employed by all Federal agencies in this area.

We ask that the same benefits, protections and rights afforded to members of the Panama Canal Company organization and the new Panama Canal Commission be extended to the employees of all U.S. Federal agencies on the isthmus of Panama.

Specifically, a very important group of employees, namely Canal Zone DOD Agency workers, are not equally protected under the terms of this treaty, nor are they equally provided for during the life of the treaty. The lack of equality of protection for these DOD employees would be highly discriminatory. The importance of this group of employees cannot be overemphasized. During the next 21 years they will be required to insure that vital functions are maintained. Any DOD Agency realignment, consolidation, transfer, or elimination of function which affect the employees living and working conditions as a direct result of the treaty, such as the loss of the U.S. court system and the loss of U.S. jurisdiction and sovereignty must be considered as adversely affecting them as it does their colleagues in the Panama Canal Organization. Therefore, these employees must receive equal consideration and future employment protections as proposed for Panama Canal Company employees in the implementing legislative package.

Historically, the 1955 Eisenhower/Remon Treaty established the Government Canal Zone Merit System which placed all U.S. employees at parity with respect to compensation, retirement entitlement, job protection rights, home leave entitlement, and tropical differential. This resulted in a uniform nondiscriminatory civil service for the Canal Zone employees both Panama Canal Company/Government and DOD Agency workers.

The merit system was accepted by management and all U.S. employees as appropriate and equitable since all were exposed to the same living and working conditions within the same geographic area.

It now appears that the new treaty, if implemented by legislation, according to the strict wording of the treaty, will create a dual civil service system for U.S. employees—discriminating against DOD employees—and essentially turning the clock back to pre-1955 conditions. For example the treaty does not provide U.S. employees of other Government agencies the 2½ percent per year



toward retirement, nor the voluntary retirement option or the annual government paid round trip for dependents education, as is proposed for employees of the new Panama Canal Commission.

Since all U.S. citizen employees of the new Panama Canal Commission and DOD agencies during the next 21 years will be living and working within a foreign country, subject to the identical political-economic conditions, anything less than an equal civil service system for both groups of U.S. employees would be intolerable, discriminatory in the extreme, and certainly not in the best interests of the U.S. Government.

The great majority of employees of the various Federal agencies came to the isthmus fully expecting a lifetime career on the isthmus. In many instances, they left home, family, and friends in order to work overseas for the U.S. Government in their chosen career fields. I know that they have always had the best interest of the U.S. Government at heart. The administration cannot now simply pull the rug out from under them without caring or making some positive adjustment for their future well being. I firmly believe that the comments provided you and the proposed changes to the implementing legislation that I am presenting represent the best means of insuring the continued dedicated efforts of all the employees concerned. Along these same lines, the continued efficient operation of the Panama Canal will be guaranteed, so that when we conclude our presence on the isthmus in the year 2000 a safe and efficiently operating canal will be the inheritance of the Panamanian people and world commerce.

It is estimated that \$3.6 billion will be the cost of implementing the treaties over the next 20 years. Surely some little consideration must also be given to the employees who will be required to perform the work necessary to make the treaties a successful reality.

Then, finally, although not directly related to the proposed legislation, I believe that the treaty is either being misinterpreted or interpreted in bad faith. I refer to article IX of the treaty, Applicable Laws and Law Enforcement.

I would like to ask this committee to investigate article IX to see if it is being fully complied with. This article refers to nonprofit organizations in the Canal Zone that wish to continue operation after October 1, 1979.

It is clear from the reading of the treaty that those organizations are to enjoy during the transition period that ends April 1, 1982 the same terms and conditions of operations as at present. Let's face it, ladies and gentlemen, the treaty was and is a destroyer of morale and a destroyer of incentives for work.

I have submitted as an attachment to this statement the specific language that may be used to amend H.R. 1716 and H.R. 111, or both, to provide for those labor guarantees and incentives. I have discussed these amendments with both the State Department and the Office of the Secretary of the Army and have been informed that neither office would object to the inclusion of such amendments in the final bill.

As October 1, 1979, the effective date, draws nearer and the confusion regarding treaty implementation dies down, both these parties realize that the present skilled work force is absolutely necessary.

Therefore, it is most advisable to implement more liberal provisions to retain the skills and expertise of the employees that now keep the canal operating and to provide real incentives to those key personnel we will be required to hire in the future years.

Local 14, AFGE, is requesting that pages 31, 32, 33, 37, 39, 41 and 44 of H.R. 1716 be replaced with the enclosed attachments.

Your committee has asked for my comments on the bills and I have given them to you. However, I would also like to offer some advice. If you want to keep the canal operating as a marvel of American know-how, as an international showcase of Americans working side by side with Panamanians, then make the necessary provisions to keep the employees on the isthmus so that they can willingly pass on their knowledge to the people of Panama.

In terms of the cost involved, these suggestions are nominal. In terms of worth to the canal organization, U.S. prestige and world commerce, then they are invaluable.

Thank you, gentlemen.

[The substitute amendments to pages 31, 32, 33, 37, 39, 41, and 44 of H.R. 1716 follow:]

1                   Section 305.   Section 144 of title 2 of the Panama  
2   Canal Code is amended   by deleting subsection (d) thereof.  
3   Section 146 is amended to read as follows:

4                   "Sec.   Recruitment and retention remuneration.

5                   (a) In addition to basic compensation and tropical differential,  
6   and additional remuneration in such amounts as the head  
7   of the department concerned determines, may be  
8   paid as overseas recruitment and retention differentials  
9   to the following categories of individuals  
10   if, in the judgment of the head of the department  
11   concerned, the recruitment and retention of such  
12   employees is essential --

13                   (1) persons employed by the Panama Canal  
14   Company, Canal Zone Government or a department  
15   in the Canal Zone prior to the effective date;

16                   (2) persons thereafter recruited outside of  
17   Panama for a position in the Republic of Panama;  
18   and

19                   (3) Medical doctors and dentist employed by the Department  
20   of Defense or Panama Canal Commission.

21                   (b) Employees who fall into more than one  
22   of the three categories described in subsection  
23   (a) of this section may qualify for additional  
24   remuneration under only one of those categories.



(c) Additional remuneration prescribed under this section may exceed 25 percent of the rate of basic compensation for the same or similar work performed in the continental United States by employees of the Government of the United States."

Section 306. (a) Title 2 of the Panama Canal Code is amended by adding a new section 147 to read as follows: "Sec. 147. Transfer of Federal Employees to Panama Canal Commission. The head of any Federal agency, including the United States Postal Service, is authorized to enter into agreements for the transfer or detail of that agency's employees, serving under permanent appointment, to the Panama Canal Commission. Under regulations prescribed by the Office of Personnel Management, any employee so transferred or detailed shall, upon completion of his tour of duty with the Commission, be entitled to reemployment with the agency from which he was transferred or detailed without loss of pay, seniority or other rights or benefits to which he would have been entitled had he remained on the rolls of that agency."

(b) Section 148 of title 2 of the Panama Canal Code is amended by--

1 (1) changing the parenthetical citation  
 2 "(5 U.S.C., sec. 2091 et seq.)" in paragraph  
 3 (1) to read "(5 U.S.C. §§ 8701 et seq.)";

4 (2) changing the parenthetical citation  
 5 "(5U.S.C., sec. 751 et seq.)" in paragraph  
 6 (2) to read "( 5 U.S.C. §§ 8101 et seq.)";

7 (3) changing the parenthetical citation  
 8 "(5 U.S.C., sec. 2251 et seq.)" in paragraph  
 9 (4) to read "(5 U.S.C. §§ 8331 et seq.)"; and

10 (4) revising the unindented portion of the  
 11 section following paragraph (6) to read as follows:

12 "...the basic compensation of each employee  
 13 shall include the rate of basic  
 14 compensation established for his position,  
 15 and, where appropriate, the amount of overseas  
 16 recruitment and retention differentials,  
 17 determined in the manner respectively provided  
 18 by sections 144 and 146 of this title."

19 Section 307. Section 149 of title 2 of the Panama  
 20 Canal Code is amended to read as follows:

21 "Sec. 149. Merit and Other Employment Requirements.

22 (a) Subject to this subchapter, the President may,  
 23 from time to time and taking into account any  
 24 recommendation of the Panama Canal Commission, and  
 25 after appropriate coordination with labor organizations  
 26 under collective bargaining procedures established by the  
 27 Panama Canal treaty of 1977,

-37-

1 Wage rates; wage bases and wage formulas; tropical differential;  
2 premium pay and night differential; reinstatement and restoration rights;  
3 injury and death compensation benefits; leave and travel; except as  
4 modified to provide equity with other employees within the agency to  
5 which the employee is transferred; transportation and repatriation  
6 benefits; group health and life insurance; reduction-in-force rights;  
7 an employee grievance system; and the right to appeal adverse and  
8 disciplinary actions as well as position classification actions;  
9 veteran's preference eligibility; holidays; saved pay provisions; and  
10 severance pay benefits; and sabbatical leave. Educators employed by the  
11 Canal Zone will be allowed the option to purchase retirement credit in  
12 their current U.S. Civil Service Retirement plan for up to ten years of  
13 previous service in public schools other than Canal Zone. Railroad employees  
14 will be allowed to include as creditable service for purposes of the Civil  
15 Service retirement system certain periods of service by individuals before the  
16 date they were employed by the Panama Canal Company or the Panama Railroad  
17 Company. Eligible employees will continue to have access to health care  
18 services from Department of Defence facilities where credential requirements  
19 shall conform to United States standards of certification for health care  
20 practices.

21 Section 322. Title 2 of the Panama Canal Code is amended by adding a new  
22 section 203 to read as follows:

23 "Sec. 203. Placement. (a) A United States citizen who, immediately  
24 preceding the effective date of exchange of instruments of ratification of  
25 the Panama Canal Treaty of 1977, was an employee of the Panama Canal Company  
26 or Canal Zone Government, who separates or is scheduled to separate on that date  
27 or thereafter in accordance with the program established under subsection  
28 (c) of this section

-37-



1       who request placement assistance under this  
2       section."  
3       Section 323. Title 2 of the Panama Canal Code is  
4       amended by adding a new section 204 to read as follows:  
5       "Sec. 204.   Educational travel benefits.  
6       Dependents of United States citizen employees of  
7       the Panama Canal Commission or a department in the Canal Zone  
8       who are eligible for educational travel benefits shall  
9       be entitled to one round trip per year for undergraduate  
10      studies in the United States until they reach their 23rd  
11      birthday."  
12      Section 324.   Adjustment of compensation.   United  
13      States citizen employees of the Panama Canal Commission  
14      shall be paid an allowance in addition to the tropical  
15      differential to offset the increased cost of living  
16      that may result after the date of entry into force  
17      of the Panama Canal Treaty of 1977. The amount of the  
18      additional compensation shall be determined by the  
19      Panama Canal Commission.  
20      Section 325.   Early Retirement Eligibility.  
21      Section 8336 of title 5 of the United States Code  
22      is amended:

1 completing 20 years of service;

2 (2) voluntarily, after completing 25 years  
3 of service or after becoming age 50 and completing  
4 20 years of service; or

5 (3) involuntarily, as a result of the imple-  
6 mentation of the Panama Canal Treaty of 1977 or  
7 related agreements, except by removal for cause  
8 on charges of misconduct or delinquency, or  
9 voluntarily within 2 years prior to meeting the  
10 age and/or service requirements in paragraph (2)  
11 is entitled to an annuity if he--

12 (A) was employed by the Canal Zone Government,  
13 Panama Canal Company or an Executive Department immediately  
14 prior to the effective date of exchange of instruments  
15 of ratification or entry into force of the  
16 Panama Canal Treaty of 1977; and

17 (B) has been continuously employed by  
18 the Panama Canal Commission or by an Executive  
19 agency conducting operations in the Canal Zone  
20 or the Republic of Panama since  
21 the effective date of exchange of instruments  
22 of ratification of the Panama Canal Treaty  
23 of 1977 or its entry into force."

1           "(n) The annuity of an employee retiring under  
 2           this subchapter who was employed by the Panama  
 3           Canal Company or Canal Zone Government immediately  
 4           prior to the entry into force of the Panama Canal  
 5           Treaty of 1977, who continues in employment with  
 6           the Panama Canal Commission, or with another Executive  
 7           agency or the Smithsonian Institution, in  
 8           the Republic of Panama is computed with respect  
 9           to the period of that service performed on a  
 10          continuous basis after the entry into force of  
 11          the Panama Canal Treaty of 1977 by multiplying--

12                   (A) 3 percent of the employee's  
 13          highest annual pay by so much of such service as  
 14          does not exceed 20 years; plus

15                   (B) 2 percent of the employee's highest annual  
 16          pay multiplied by so much of such service as  
 17          exceeds 20 years."

18          "(o) The annuity computed under subsection  
 19          (n) of this section for an employee who was employed  
 20          as a law enforcement officer or firefighter  
 21          shall be increased by \$8 for each full month of  
 22          such service in the Republic of Panama after the  
 23          entry into force of the Panama Canal Treaty of  
 24          1977. This increase in annuity shall not be paid  
 25          with respect to service performed after completion



[The following additional statement was received for the record:]

#### ADDITIONAL STATEMENT OF JAMES J. O'DONNELL

Perhaps the message of widespread employee frustration at the continuing lack of a firm framework of reference on living and working conditions on which to plan their futures has been an underlying theme in the testimony thus far. This frustration and insecurity is pervasive and runs through all layers of management and workers with the same uncertainties nagging at the highest level managers and professionals to the lowest graded laborer.

Gentlemen, the threat to our security which we face has created a climate thick with concern and demotivating in the most classic sense of behavioral psychology. The hygienic motivating hierarchies or factors mentioned by Maslow and others are now at the lowest level and I fear we have now a crisis in behavior that can best be described as explosive; where the same elements of strength and loyalty that have clearly established the Canal workforce as a proud model of dedication and efficiency may be spontaneously precipitated in the opposite direction in a final attempt to secure self preservation.

The scenario unfolding before us is clearly one of traumatic change without any accompanying guarantees of security. By the beginning of May nearly 7 out of every 10 employees will have received notification of a transfer or a reduction in force. The vast majority of the workforce will have tangible evidence of the effect on their livelihoods without anything but empty promises that they will be protected. At the same time, we also face major changes in life style and conditions such as legal jurisdiction, schooling, medical care and logistical support to name but a few. The future looms as one large elusive series of threatening actions which are vast and overwhelming.

Now you might be thinking, we've heard this before, and isn't this overstating the case? I think not and I have tried to analyze some data which may quantifiably indicate this underlying rapid deterioration of this model work force. Specifically, I will present data on employee safety, ship accidents and disciplinary actions as evidence of the deep-seated breakdown in employee motivation and morale, and dispel the mistaken interpretation of employee silence and continued efforts on the job as acquiescence, acceptance or resignation to their fates as fodder to feed the treaties. Admittedly, each of these indicators is composed of multiple factors; however, a definite and identifiable trend exists which will allow you to draw your own conclusions as to the quantifiable severity of extant problem and the need for genuine equitable solutions as a matter of high priority.

#### EMPLOYEE SAFETY

The Accident Frequency Rate involving disabling injuries throughout the Panama Canal Company/Canal Zone Government has shown a dramatic increase of 57 percent form fiscal year 1977 to fiscal year 1978. Individual bureaus have experienced increases in disabling injuries of as much as 100 percent for this period. With all factors being the same, one might justifiably conclude that the drastic increase in accidents is a direct reflection of the pressures of insecurity on all employees. When one looks at individual divisions, one finds that of the ten divisions exceeding the Company/Government average Accident Frequency Rate; that the five highest accident rates are being experienced by units which either will cease to exist on October 1, 1979 or 30 months thereafter. For instance, the Marine Bunkering Division, which leads the list in disabling injuries, is experiencing an Accident Frequency Rate over 3.5 times that of the increased Company/Government average and 6 times that of the Company/Government average in fiscal year 1977.

#### SHIP ACCIDENTS

The frequency of accidents involving transiting ships shows the same alarming trend. In fiscal year 1975 there was one accident for every 540 oceangoing transits. In fiscal year 1978 the frequency has increased over 95 percent to one accident for every 278 oceangoing transits. Approximately two-thirds of the accidents involve employee-related fault. For the same period the average damage cost per accident has climbed 36 percent, from \$70K to \$95.4K, and total damage amounted to nearly \$5.5 million in fiscal year 1978.

#### DISCIPLINARY ACTIONS

Employees receiving suspensions or reprimands is another factor which is indicative of overall employee motivation and which we see clear signs of deterioration. In fiscal year 1977, 548 disciplinary actions were taken within the workforce. In fiscal

year 1978 this number increases to 700—an increase of nearly 28 percent—with the increase in suspensions increasing nearly 40 percent this same period.

Gentlemen, I stipulate that from these indicators of employee frame of mind we have clear and quantifiable evidence of serious deterioration which unless checked by providing an immediate and concrete assurance of living and working conditions will reach epidemic and catastrophic proportions.

Other less quantifiable, but nonetheless observable indicators, such as pilferage, absenteeism, alcoholism and psychotic behavior further confirms the critical breakdown in the traditional tough fiber of this workforce. I believe we are rapidly approaching, if indeed we have not already reached, a point where any precipitant could cause a spontaneous collapse of the workforce. The implications are quite dire whether the collapse manifests itself as a work slowdown or stoppage or even willful damage to the operating machinery, but the fact remains the population shows clearly demonstrable signs of overstress, behavioral instability which has been engendered and nourished by change and insecurity without any concrete stabilizing conditions to mitigate the trauma of change which to date has stricken at the very heart of the motivation, morale and security of the population. Unrelenting and unchecked frustration is unpredictable and often irrationally destructive.

The case, I believe, is clear that you gentlemen can take the action to rectify this obviously dangerous situation. By passing the legislation which will fix the conditions of employment you can allay, to a large extent, the very real fears now ingrained into the Zone worker. The nature of the legislation required has been amply stated by other testimony.

My only purpose today was to present to you evidence to clearly establish the critical nature of our current situation.

I would like to conclude my remarks by briefly addressing the potential consequences of a disruption to the Canal operations which is likely when all reasonable avenues of relief have been exhausted.

On the basis of fiscal year 1978 data, one could expect a daily loss of 35.2 transits, 2.5 of them being North Slope crude oil. Daily cargo loss would approximate 400,000 long tons and loss in tolls revenues would approximate \$541,000 daily.

Focusing on one commodity, with the shortage of crude oil in the Eastern States due to the Iran crisis one would conclude that the disruption of North Slope crude supplies to the East Coast, which rely solely on the Panama Canal, might be crucial and politically explosive.

Seventy percent of the Atlantic to Pacific commercial cargo transiting the waterway originates on the West Coast and terminates on the East Coast, while 33 percent Pacific to Atlantic cargo can be attributed to reverse flow. Obviously the impact on regional or local economies could be significant within the United States whereas, for those countries in South and Central America where the bulk of both its imports and exports depend on the Canal, the impact might well be disastrous even on the short term.

Data exists which could fully develop detailed potential impacts of a canal closure but, suffice it to say that, from a broad overview such a closure would generate major political and economic ripples and considerable grass roots interest on the part of those affected.

Clearly, then, the avoidance of such an eventuality is paramount if it can be done within the bounds of reason, justice and equity.

I hope that this information will aid you to assess the situation as it exists, the potential consequences of both favorable and unfavorable action on the part in Congress and in the end contribute to resolving the end problems facing us as employees and the two nations who have undertaken the new relationships contained within the Panama Canal Treaties.

#### APPENDIX I.—PCC/CZG ACCIDENT FREQUENCY RATES—I.a.—BUREAU ACCIDENT FREQUENCY RATES

Bureau	Calendar year—				Percent increase
	1975	1976	1977	1978 <sup>1</sup>	
Engineering and construction.....	3.28	2.52	4.87	6.19	27.0
Marine.....	4.94	5.56	6.35	8.96	41.0
Transportation and terminals.....	11.35	14.61	7.86	14.04	78.6
Supply and community services.....	1.95	1.85	1.79	3.50	95.5
Civil affairs.....	2.31	4.17	6.57	10.73	63.0
Company/Government average.....	4.82	5.35	5.37	8.41	56.6

<sup>1</sup> 3 quarters.



*I.b.—Calendar year 1978 (3d qtr) accident frequency rates*

## Division:

Marine bunkering.....	30.88
Police.....	30.02
Fire.....	28.66
Railroad.....	17.90
Terminals.....	16.54
Canal protection.....	12.36
Locks.....	11.98
Dredging.....	11.70
Transit operations.....	10.91
Industrial.....	9.03

Source: Calendar years 1977 and 1978 3d qtr operating bureau disabling injuries report.

## APPENDIX II.—PANAMA CANAL MARINE ACCIDENTS, FISCAL YEARS 1974-78

	1974	1975	1976 <sup>a</sup>	1977	1978
Number of accidents.....	41	41	78	64	57
Estimated damage—millions.....	\$3.769	\$2.872	\$4.463	\$5.160	\$5.438
Estimated cost/accident—thousands.....	91.9	70.0	57.2	80.6	95.4
Frequency (accidents/oceangoing transits) .....	1/441	1/540	1/290	1/312	1/274

<sup>a</sup> Includes 3 mo transition quarter.APPENDIX III.—DISCIPLINARY ACTIONS BY ORGANIZATION PANAMA CANAL COMPANY/CANAL ZONE  
GOVERNMENT FISCAL YEARS 1975-78

Organization	1975	1976	1976	1977	1978
Executive Secretary.....	0	2	0	0	0
Administrative Services Division.....	6	4	0	1	4
Civil Affairs Bureau.....	34	30	6	35	55
Financial Vice President.....	2	2	0	0	1
Engineering and Construction Bureau.....	84	84	20	91	102
Health Bureau.....	27	21	5	42	35
Marine Bureau.....	101	88	30	109	125
Personnel Bureau.....	5	3	1	3	6
Supply and Community Services Bureau.....	58	67	21	55	64
Transportation and terminals Bureau.....	296	188	53	212	308
Reprimands.....	396	335	97	357	434
Suspensions.....	217	154	39	191	266
Totals.....	613	489	136	548	700

## AFGE LOCAL 14 POSITION ON THE CANAL ZONE COLLEGE

AFGE Local 14 would like to go on record in support of continuing the operation of Canal Zone College as a community college in the post-treaty period. We believe DODDS should operate the college on essentially the same basis as it is currently operating.

We do not believe the college should be killed by lack of inclusion in the enabling legislation, by over pricing the tuition, or by substitution of an extension division of an existing U.S. university.

A change in the college situation would be viewed by the community as a diminution of the quality of life, a loss of training facilities for employees, and the elimination of a source of good will between Panamanians and U.S. citizens. The morale of all Canal Zone employees would be affected since they had been told that educational programs of a high quality should be maintained. The Honorable Ambler H. Moss, U.S. Ambassador to Panama, in a television interview on SCN on



October 8, 1978, stated: "Anything the U.S. Government can do to maintain a high quality of education is essential for the morale of the American community and ought to be supported. We should not be penny-pinching in this respect."

Since the affected people in the Canal Zone and Panama, the Governor of the Canal Zone, the U.S. Ambassador to Panama, and the Chief of DOD Southern Command are in favor of maintaining Canal Zone College; we ask that you as Congressmen and Congressional committee members support the portion of the enabling legislation that will continue Canal Zone College as a function when it is transferred to DODDS.

JAMES J. O'DONNELL,  
*President.*

The CHAIRMAN. Thank you very much, Mr. O'Donnell. Your testimony is excellent, very comprehensive, and is going to serve an excellent purpose for this committee.

We observe your concern with respect to the interpretation of article IX and you have our assurance that we will take a very strong look at it and assure that it is properly interpreted.

The amendments that you have alluded to will also be looked at and I can only assure you that every consideration will be given them.

Mr. O'DONNELL. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Derwinski?

Mr. DERWINSKI. Just a brief comment.

Mr. Lynch, I am especially pleased to see you here today. In perusing this statement by Mr. Blaylock, your distinguished president, I see that like all of his presentations before our committee it approaches brilliance. I wish you would convey that point to Mr. Blaylock.

Mr. LYNCH. I will be very happy to convey that wonderful message.

Mr. DERWINSKI. Mr. O'Donnell, I realize that we are here in your home precinct. I would just like to point out one thing which is sort of a frustration we all feel.

You appreciate the fact, as you say in your opening statement, that ratification of the treaty is an established fact. Yet running through this testimony this morning is, it seems to me, a last ditch effort to try to change the anticipated impact of the treaty.

Now that is gone, remember, that possibility is gone. So you can't expect miracles of us. This committee is limited to specific areas of its own jurisdiction.

As some of the members have indicated, we have the problem of precedent, the status of the solvency of the retirement fund, and many, many factors we have to consider. Much as we would like to accommodate all your ardent wishes, we are probably operating under much more of a restraint than you could possibly imagine.

There is no way that we could use legislation to nullify the agreements which have been reached in treaty form. So I hope you appreciate the fact that we have your interests at heart, but we are operating under very severe restraints.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mr. Wilson?

Mr. WILSON. Yes, Mr. O'Donnell, on my applause meter you did as well as the Governor.

You have a very fine statement here and, unfortunately, because of the time restraints we have, you had to reduce it. Yet, in section

3 on pages 4 and 5 there is disturbing information, assuming it is accurate.

It has to do with the commissary, postal privileges, and PX privileges that are denied the U.S. employees after 5 years.

Then you say that when you brought the point up that it should be extended for the life of the treaty, for the 20-year period, that it was dismissed without any attention by General Dolvin and Assistant Secretary of State David Popper.

Then you say, "However, whenever Panama asks for reconsideration on treaty matters, we suddenly find the terms of the treaty are again negotiated."

Is this a fact?

Mr. O'DONNELL. I will explain it, Congressman Wilson.

We had a meeting here with General Dolvin and Ambassador Popper. We spoke about the PX privileges, commissary, post office, et cetera, being extended for 5 years to the canal commission employees.

They said that they could not do anything about that because it is locked into the treaty, their hands are tied. It is just an accepted fact. It is in the treaty and we cannot do anything about it.

Then later on in my testimony to them I stated that the nonprofit organizations were going to lose the chance of having the same conditions for 30 months that is in the treaty, so stated in the treaty, and I wanted to know why they were not going to be allowed to have that.

Ambassador Popper stated that that is under advisement and further discussion with the Panamanian Government.

I then concluded that how could this be when I ask for something, for the PX privileges, it is locked in and we can't talk about it. But when I talk about an article that is clear, in my estimation, the nonprofit organizations, it states they will have it for a 30-month transition period, that is under advisement with the Government.

So I concluded when I asked for something it is locked in if they don't want to give it. But if Panama is discussing something because they apparently want to take away the 30 months, then that is under discussion.

So it is not good for the goose what is good for the gander.

Mr. WILSON. Or else what is good for the goose is good for the gander.

Well, seriously, you have given us one instance. Do you have any evidence to indicate that there have been revisions that our State Department has agreed to that have changed the treaty in any manner whatsoever to the benefit of the Panamanians?

Mr. O'DONNELL. Congressman Wilson, I will research that and give it to you in writing if I find any such things.

Mr. WILSON. Thank you very much.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Taylor?

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. Chairman, I would like to reiterate my support of what has been said. It is good to see Jim Lynch here.

Mr. O'Donnell, you make a very, very impressive testimony. I certainly appreciate your thoughts.



You stated in your statement, I believe, Mr. O'Donnell, that on page 30, section C, you would like to see eliminated, I believe that is the section that describes that not more than 25 percent can be paid above what is paid the employees of the United States.

What percent do you think would be appropriate, or do you think it just should be completely lifted?

Mr. O'DONNELL. Here at the present time we have a 15-percent tropical differential. It was 25 percent. The Secretary of the Army several years back decided that was no longer to the advantage of the U.S. Government to pay the full 25 percent and he alone had the authority by law to reduce it.

Mr. TAYLOR. To 15 percent?

Mr. O'DONNELL. Yes, to 15 percent.

I am saying that I would like to see this go back up to where it was. I am requesting that at least it go back up to 25 percent. In my testimony I state that.

I also ask that there be a section, that a word "not" be removed where previously it said, would not exceed 25 percent. I have asked that in the legislation the word "not" be removed because as it was brought out here earlier, it is possible that an additional 15 percent over and above the present 15 percent will be needed.

Therefore, that comes out to 30 percent. It does exceed the 25 percent. I have requested that provision in the implementing legislation to allow the differential to exceed 25 percent.

Mr. TAYLOR. But this does exceed what the present regulations are, the 25 percent. It is now 15; is that correct?

Mr. O'DONNELL. That is correct.

Mr. TAYLOR. This says it may not exceed 25 percent.

Mr. O'DONNELL. The law allows it today to go to 25 percent.

Mr. TAYLOR. Under present law?

Mr. O'DONNELL. Under present law the Secretary of the Army himself has the authority to make the change. He can bring it back to 25 percent. The law now says may not exceed 25 percent.

I am requesting in one part of the testimony that it be brought back up to the maximum which is 25 percent.

Mr. TAYLOR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Taylor.

Mrs. Schroeder?

Mrs. SCHROEDER. Thank you, again. I will be very brief and submit questions again.

Jim and Barbara, I have one suggestion, that you increase dues so you can get name tags. That is some kind of discrimination down there.

I have one fast question and that is all. That is, would you, as a union, object to the removal of the alien clause in title VII in the Civil Service Reform Act so that it would apply equally to Panamanians? Would you have any objection to that as a union?

Mr. O'DONNELL. I don't have any objection. What we are interested in, Mrs. Schroeder, is that the unit of terminations be separate. But I am not against this law applying to non-U.S. citizens. In fact, it would be very appropriate, in my opinion, if title VII as the law now states would apply to U.S. citizens and that administratively they apply title VII to the non-U.S. citizens.

Mrs. SCHROEDER. And you would have integrated units?



Mr. O'DONNELL. We would not have integrated units.

Mrs. SCHROEDER. You would have Panamanian bargaining units?

Mr. O'DONNELL. That is just like it is all over the world. It is that way all over the world. It is that way all over the world because title VII excludes non-U.S. citizens all over the world from applying.

Mrs. SCHROEDER. But if you put them both together, in essence, then, there would not be any reason to exclude non-U.S. citizens here? This would be different than the rest of the world?

Mr. O'DONNELL. That is why I said administratively applying title VII, but the units of determination would be separate.

Mrs. SCHROEDER. So even though you are operating under the same laws, you would want separate units?

Mr. O'DONNELL. That is right.

Mrs. SCHROEDER. Thank you.

The CHAIRMAN. Thank you, Mrs. Schroeder.

Mr. Corcoran?

Mr. CORCORAN. Thank you, Mr. Chairman.

I hope I don't show the bias of the chairman and myself when I say I am not surprised that a man by the name of O'Donnell would do such an impressive job.

I have just one question that I would like to explore with you a little bit. That is your testimony that you have apparently established some agreement with the Secretary of the Army and the State Department on some of the changes that you would like to see to the legislation before us.

Could you elaborate on that? Do you have that in writing?

Mr. O'DONNELL. No. I will elaborate on that.

I met with the Secretary of the Army's office, Colonel Crittendon, and discussed in detail provisions that I had offered for the implementing legislation, some of the things that I have quoted right here today.

The Secretary of the Army's office felt that those provisions, if gotten into the treaty by you Congressmen and Congresswomen, they would not object to it. But they were not going to add it themselves because they felt that it is possible that the package at the present time may be heavy.

But if I could get it in or we in the labor movement could get it into the legislation, they would not object to it because it is up to you to buy it.

I have also met with the Ambassador, Ambassador Moss, and I have presented to him these same points. The Ambassador is of the opinion that he would not object to the same inclusions if you gentlemen would put them in. That is a pretty safe position.

The CHAIRMAN. Thank you, Mr. Corcoran.

Mrs. Spellman?

Mrs. SPELLMAN. We get hung up over all those words, don't we? When I first came to the Congress, my son decided that henceforth I would be known as Gladys Spellman, the freshperson Congress person.

Your cost-of-living adjustment interests me because, as Jim knows, we have been through this business in other areas. You said it was taken from 25 percent to 15 percent.

Was that based on a survey that took place here?

Mr. O'DONNELL. No, ma'am. That was done arbitrarily by the Secretary of the Army under advisement from those underneath.

But to my knowledge there was no survey, nor was our union involved in any participation in it.

Mrs. SPELLMAN. I know one of the places we studied was the Virgin Islands where they went from 25 to 12½ percent and then one of the islands was brought down to 7 percent. We have asked that that be reconsidered.

I must say that OMB is doing a very good job of looking into that. Of course, the cost-of-living adjustment is supposed to be a realistic one based on fact, not whim.

How would you feel about having a survey done?

Mr. O'DONNELL. Well, I believe that we will win out because I have seen some statistics which are available to this committee which state that the comparable things that we have here in the Canal Zone such as electricity, water, purchasing power, et cetera, in comparison to the Republic of Panama for the same items, Panama is over—I believe the figure is, and I stand to be corrected—67 percent higher. I am going to play safe and just call it 40 percent higher.

Now if the survey that was taken by the administration is true and factual, and it is dated 1977, then I believe I have some justification to worry about what the future is going to be when we go on to the economy of Panama.

That is the purpose of saying I would like to get these things solved right now because if it is true what I am saying and the cost of living does exceed 40 percent, then we are in for a little bit of trouble. We will have to come back to you later and try to justify this. But now with this implementing legislation is the time when the iron is hot and we would like to strike.

Mrs. SPELLMAN. You are comparing the prices and the costs here with Washington, D.C., because that is what it is based on?

Mr. O'DONNELL. No, ma'am. We are comparing the prices in the Canal Zone with the prices in the Republic of Panama.

Mrs. SPELLMAN. Then we would have to compare the prices with those in the Metropolitan Washington area in order to determine what your cost-of-living adjustment would be.

Mr. O'DONNELL. I think it would be to our advantage if you did that.

Mrs. SPELLMAN. Housing, what is it like here?

Mr. O'DONNELL. The housing that we have is government-owned housing. The house I live in is excellent. The Panama Canal Company maintains very good housing. They deserve a lot of credit. There are some old houses made of wood, et cetera. There are employees who are not 100 percent satisfied with that type of housing. But there are a great number of employees, well over 90 percent, who are well satisfied with the housing situation that we have in the Canal Zone.

Mrs. SPELLMAN. Give me an idea of what it costs for housing here.

Mr. O'DONNELL. At the present time I live in a three-bedroom house. My electricity is running around \$75 a month. My rent is running around \$170 a month.



Mrs. SPELLMAN. I would suggest you be very careful about being compared with the Metropolitan Washington area. It sounds very enticing to come here.

I shall not ask any more questions because I feel that you are our good friends and neighbors and we can call you at almost any time.

Incidentally, Jim Lynch, don't put the sign up. Would you put the sign up saying Jimmy Carter? No. Would you put the sign up saying Walter Mondale? No. And you don't have to put a sign up saying Jim Lynch.

The CHAIRMAN. Thank you, Mrs. Spellman.

Mr. O'Donnell, just one question. You applaud the health services program here. Apparently it is a very good one. How does it supersede that available to your counterparts in the States?

Mr. O'DONNELL. Well, the history of our health care in the Canal Zone is in the history books, as you well know. We have maintained here a very high standard of health care. Our hospital shows it. The health of our employees proves it.

Local 14 wants to make sure that that standard that we have today will be maintained after October 1, 1979. We have certain suggestions that we ask that they do as far as certifying the doctors and making sure that the doctors are qualified like they are today.

The CHAIRMAN. Are you essentially covered by a private insurer?

Mr. O'DONNELL. Yes. The majority of the employees are covered under Mutual of Omaha. There is a little problem that is developing over the payment of room and board benefits when we go under DOD, but they are working hard to try to solve that problem.

There are several problems down the road as far as health care is concerned in the insurance field that they are working on and hopefully they will solve it.

The CHAIRMAN. Is it fair to assume that health care delivery costs are somewhat less here than the costs are in the States?

Mr. BAGLIEN. No.

Mr. O'DONNELL. I am going to be honest with you, I cannot give you a finite answer on that. I will give it to you in writing. I will research it and give you an answer.

The CHAIRMAN. Thank you.

Are there any further questions?

Mr. LYNCH. The president of our nurses local here would like to make a few comments.

#### STATEMENT OF BARBARA CORSON

Ms. CORSON. Thank you.

My name is Barbara Corson. I am an AFGE local president. I thank you, Jim, because I didn't come to the table as a token for Mrs. Schroeder so she could say there she is. I deal under the auspices of AFGE, and I appreciate that fact.

I represent the professional nurses that are part of the health care delivery system here in the Canal Zone. I think if any of you are on health committees you realize that nurses are intensely interested in becoming a part of the health care program in the United States and to determine parts of its costs.



It is going to be very much so in the future. This is what we are asking of you. We are completely covered by the transfer function. The treaty says that the Panama Canal Company government will not be involved in hospital care. That function has been given over to the Department of the Army.

Most of the 211 or more nurses will probably want to remain for the length of their career. There is not a great deal of opportunity in the Federal system to be covered by this transfer to the United States.

If you don't want to work down here, then you could ask for priority placement. I would say that most of the nurses want to stay. We asked that you have implemented title 7 of the Civil Service Reform Act so that we can have some say in the health care delivery system under the Department of the Army.

Thank you.

The CHAIRMAN. We appreciate your observations. It is certainly possible to take that under consideration. Are there any further questions?

Mr. Derwinski?

Mr. DERWINSKI. I think I understand that the statistical data on hospital costs, et cetera, will be supplied for the record by somebody.

The CHAIRMAN. That is my understanding.

Mr. O'Donnell is going to provide it for the record.

Mr. O'DONNELL. That is right.

Mr. DERWINSKI. Standard charges like room charges, X-ray, et cetera. How many beds are in this hospital?

Ms. CORSON. Several hundred.

Mr. DERWINSKI. Would you give us an exact figure?

The CHAIRMAN. By letter. If you would forward that to the committee, we would appreciate it very much.

Ms. CORSON. Fine.

The CHAIRMAN. Are there any further questions? If not, again, our deep appreciation to you.

Mr. O'DONNELL. Mr. Baglien has a short statement he would like to give.

#### STATEMENT OF DAVID BAGLIEN

Mr. BAGLIEN. I was just going to say that at the moment the health care figures are relative but they wouldn't be in October. In October, when we go under the Department of Defense, the proposed cost for health care is going to be \$296 per day that you spend in the hospital. That is of some concern to the employees.

The CHAIRMAN. Essentially what we are interested in is what are you paying now.

From the Audience. \$95 a day.

The CHAIRMAN. Again, our deep appreciation to you for your helpfulness to this committee. We look forward to your testimony in Washington, Mr. Lynch.

The next witness is Mr. William Drummond as president of the Canal Zone Police Union, No. 1798, AFGE.

At this point, I would like to announce that the witnesses who were scheduled to appear subsequent to Mr. Drummond are now

scheduled to be first up tomorrow morning. That will be at 10:00 a.m.

Mr. Drummond?

**STATEMENT OF WILLIAM R. DRUMMOND, PRESIDENT OF  
CANAL ZONE POLICE UNION, LOCAL 1798, AFGE**

Mr. DRUMMOND. Mr. Chairman and members of the subcommittee, my name is William Drummond. I am President of the Canal Zone Police Union, No. 1798, American Federation of Government Employees.

I was invited to sit with Jim Lynch earlier. However, I had already made up my statement several days before. Some of the issues that I would bring out here would take up more time than what the ladies and gentlemen had presented to you.

If I can deviate from the statement, I would like to first of all thank you for allowing us to testify before the subcommittee today. I would also like to invite you to the Canal Zone and hope you enjoy our weather.

The CHAIRMAN. Thank you.

Mr. DRUMMOND. With respect to some of the questions that were raised here dealing with retirement, this union is not asking for anything that we don't already have, 20 years, 50 years of age, 2.5 percent. We pay for 2.5 percent over and above what other Federal employees pay for. We pay 7.5 percent per year.

Now, in respect to why the employees here, I think the question was raised, why are they unique, they are unique because of a specific bill which was put into effect in 1958, Public Law 85-550.

That gave to the Panamanian employee the right to civil service retirement the same as U.S. employees. It was an international agreement made with the Republic of Panama, a commitment made by the United States.

If you go back to Public Law 85-550 you will find that the burden of the funding was paid by the agency. There were several hundreds of millions of dollars that the agency had to pay over a period of 20 years.

I see no reason why it can't be done again today with respect to this other retirement system that is being proposed. I am sure that the Governor doesn't want to pay that through his agency, but someone has to pay for it.

Another thought I think ought to be considered here is this: When you are talking about the fund itself, you are really talking about a basic unfunded system, and it is civil service.

If you are taking positions out of that system like right off the bat you are taking out half the work force, with 6,000 or 7,000 non-U.S. employees, in October; that is going to save money for the U.S. Government. It is going to save money for the fund anyway.

I suggested some time ago when we were asked to present our views on this retirement system that the employee pay for an extra half percent, that they pay for the agency's contribution which would have a half percent in their own contribution which would be a half percent.

I forget what the figures were on it. There are many ways that the U.S. Government attributes benefits or can attribute benefits from this retirement system as it is being presented here.



Why bother with it? I think you have to go back to what the United States wants to do. I mentioned that the police already have a system similar to that. We paid for it since 1974, I believe.

We are not asking the committee for much of anything. I have 23 years Federal service. The man on my right, Mr. Royo, has got 23 years also. He has been in the Federal Government for that long. He is a non-U.S. citizen; I am a U.S. citizen.

He has worked for the Government for 23 years and you are going to give him at most three more years Federal service from which he is not going to be able to retire because he is not going to be able to reach that magic age of 50.

So, what does he do? He is a cop. He has been a cop for a number of years, 15 of those 22 years at least. He made a career as a police officer. I am a police officer. I don't want to be a watchman. I don't want to be an electrician or a plumber. I made a career.

Fifteen years ago when I got out of the service I said all right, I am going to make an agreement. If I do my job you are going to retire me on the policeman's retirement system whatever it will be at the time I retire.

It was a verbal contract, I felt. I am going to do my job for you, you do your job for me. That is all the police are asking for.

Now we have transfer rights to the States right now or will have in October or April of this year. It is this priority transfer right system that all other Federal agencies have.

When they chop down the police force, they are going to open up other Federal agencies. He is not going to be able to continue his employment as a police officer or in that security position. He may get a job as an Ambassador to the United States, but for all practical purposes he is not going to continue his career as a police officer.

I don't think that is fair. That is the only thing that I am presenting here today in respect to merit and fairness. As a Panamanian employee here in the Canal Zone you are giving them or proposing to give them the immigration rights, but not the job that goes along with it.

You do it to a Vietnam immigrant and I suspect, too, Cubans, and other nationals. If they have a qualification that the U.S. Government requires, land wage or whatever it may be, they are given to them.

In 1976 the Comptroller General ruled that Vietnam immigrants could take on Federal jobs. But you wouldn't do it here.

I see no reason why not. We are not talking about a great number of people because Panamanian employees or nationals are like anybody else. They would prefer to live in their country whatever the economic problems are.

But there are certain Panamanians, because of exegesis of the situation, who either cannot or prefer not to remain here. This is particularly true with respect to policies because they have enforced U.S. law for 15 years and some are not well liked in Panama.

In any case, we have studied both bills; that is, 1716 and H.R. 111. H.R. 111 I believe is the so-called Murphy bill. We support that bill as opposed to the administration's bill for a number of reasons.



Essentially what it is, it gives the fiscal responsibility, it enforces the fiscal responsibility of protecting the taxpayers while the bill 1716 does not in many areas.

I don't want to go into them because I don't believe that I could present changes in legislation with respect to what should or should not be done. But I do know this: When you are dealing generally with the H.R. 111 as opposed to 1716, far and away the 1716 is a much better bill for the interests of the United States, the interests of the taxpayers.

I believe that this is what we are all here for. There are certain aspects to both bills that are lacking; that is, that administrative oversight or congressional oversight that is needed to make sure that the administration, whatever it may be, the commission, when they start running this canal, will run it according to the treaty.

Now, one of the biggest faults I found with Public Law 85-550, which was the 1958 implementation of the 1955 treaty, was that it was permissive in nature. It may generally conform to civil service laws and regulations.

I have been here 15 years and have been a labor representative for 6 years, and I have given several examples here of money issues in which the administration now runs.

It is totally inadequate. I speak specifically for the policies, but I have worked in other areas where I have been asked to represent other employees, and I have found that generally there is a systematic problem in administrative oversight by the Congress.

There is no incentive to implement. There was no incentive to implement the 1955 treaty, and that is what a great deal of the problem is today here in the agency. It was a good bill, but there was no incentive pushed into it.

I believe Mr. Corcoran indicated that we should give that latitude or that flexibility to the agency. I can only say that after 20 years when they had that flexibility they didn't seem to be able to implement what the Congress intended in the 1955 treaty.

I don't believe that unless you put the incentive into it to force them, to take out the permissive language, that they are going to implement the intent of the Congress in respect to the legislation on this treaty.

I am dealing out of experience. So this is basically the problem we have that you are going to have to face.

Now, you can say, all right, let's forget the whole thing. The agency or the administration took that view. They said all right, we have two possibilities here. We can get rid of the work force, bring in a new one, or we can keep that which is already here.

I believe that it was in their best interests or they thought it was in their best interests to keep that work force that was here, for economic reasons.

If you are going to do it, you are going to have to give them some incentives to stay.

Now, I had a job. I was looking for a job when I came here, right? I will be looking for a job when I leave. If I am not given some reasonable incentive to stay for those 2 or 3 years or 1 year, whatever I have to stay here, I am going to leave.

If the policemen leave—and there are about 125, I believe, that have already put in for transfers out of a work force of 300—when

they leave you are going to have a problem here because these employees have said all right, we want some U.S. protection for a transition period of 3 years because of our human rights things.

It is important to every employee, even the pilots, that they have at least that, that they have some assurance that they will have a period of transition where their rights will be protected to some degree.

Well, the agency has said all right, we are going to do that, the administration did. But the way they do it is by expanding a liaison unit. It is a totally inadequate system for the purpose of investigation and gaining good relations with the Government of Panama.

[The submitted statement follows:]

#### PREPARED STATEMENT OF WILLIAM R. DRUMMOND

Mr. Chairman, members of the subcommittee, my name is William R. Drummond. I am president of the Canal Zone Police Union, local 1798, AFGE. The gentlemen beside me are Eugene Johnson, first vice president; Ricardo R. Royo, second vice president, and Victor E. Joseph, secretary/treasurer of this union. We all extend our appreciation for being offered this opportunity to present our views here today.

We have studied the two bills presented to the Congress to implement the Panama Canal Treaty of 1977. Although both bills are very similar in respect to many issues: The so-called administration bill is by far the least protective to the Panamanian and U.S. public and their respective governments.

We therefore, for what it is worth, support the passage of the so-called Murphy bill. In our opinion, this bill presents the proper incentives for fiscal responsibility that is needed to protect the interest of the United States within the next 20 years, and an administrative model for Panama to inherit in the year 2000.

There are however, certain aspects to this bill as well as the administrative bill that has marked weaknesses in the projected administration of the Canal. In order to recognize these weaknesses one must have lived and worked in the Canal Zone, or must have been a keen observer of the so-called Canal Zone merit system enacted by the Congress in 1958, pursuant to the 1955 Remon-Eisenhower treaty.

Like the present legislation before us today, the 1958 legislation was put forth in good faith to solve much of the economic, political, and physical complaints aired by the government of Panama. We believe that it was an excellent piece of legislation that failed to resolve these complaints for the same reason that this present legislation will fail to resolve the present almost identical problems.

There was not put into this present legislation, nor the 1958 legislation, the necessary incentives to make the projected system work administratively. It will not work simply because too much of this bill is permissive, leaving to the administrator to effect that which the Congress had intended. The Congress has always presumed that the Canal Administration will act in good faith. The last 20 years under the Canal Zone merit system, is a clear example that this presumption has been found lacking.

Let me give you just a few examples that may be converted into wasted dollars for the U.S. taxpayer. For at least the last 20 years, the Canal Zone police division has presumably been training new employees to become competent police officers. Contrary to law and the agency's own regulation, they have been doing this without the benefit of any definitive written policies, procedures, or standards in which to effectively evaluate these employees. They hire and fire employees on the sole basis of and/or personality. The agency's only assurance that these employees have the potential to perform their function is through the entrance examination. They have no assurance that those employees released were released for cause, for the simple reason that the police division has solicited, encouraged and formulated false and/or misleading adverse trial period reports against these employees. For the most part, those that do pass their 1-year trial period, do so simply by staying out of sight and/or by ingratiating themselves with their supervisors or by having personal contacts with high officials throughout the agency on good terms with the chief or civil affairs director or their subordinates.

After 20 years, the Canal Zone police division has no labor-relations policy. Not only do they counsel probationary employees not to join or affiliate with this union, as a condition of future retention, but they also make it clear to these and tenured



employees not to join, affiliate, or become active union members as a condition of promotion and selection for schooling. My past union secretary/treasurer was passed over for promotion at least five times before he finally got smart and resigned his position, to be promoted soon thereafter. For the past 15 years, the police division did everything in their power to keep the Panamanian employees out of the promotion and election system. Only one U.S. black in the last 20 years has ever been promoted. It has only been in the last 7 to 10 years that they have been hired as police employees, and then only because they were veterans. Women hired recently within the last 3 to 5 years, are terminated during their probationary period simply because they look or act too much like women. Even the Civil Service Disability and Workmens Compensation Act is violated and all under the present Canal Zone merit system regulations. I have enclosed several more recent documented cases in order to substantiate the above statements. For the most part, these cases have been brought to the attention of the responsible officials within the agency and essentially ignored or sidestepped.

For the past 6 to 7 years, I personally have been presenting these type problems to the attention of the agency, and for the most part I have been ignored.

It has been my experience, as I frequently represent other employees in other units of the company/government, that these problems also exist throughout the company/government to one degree or the other. In short it is systematic most especially at the division and lower unit levels.

I am soliciting the members of this committee to help those employees in the cases that I have presented, but most importantly, I wish to show by example that the canal zone merit system has been 20 years of administrative failure, because the original legislation that brought it into being relied on the premise that the canal administrator would act in good faith and carry forward that which the Congress intended.

The language implementing the Canal Zone merit system was too permissive in nature. This present language in these two bills is also, we believe, too permissive in nature. If left unchanged, you will be plagued with labor discontent and work stoppages regardless of what collective bargaining program is finally instituted. The worst thing that could happen to this canal is to carry forward, as contemplated, the present Panama Canal Personnel Manual regulations as the basis in which to administer the new commission employees.

In respect to the retirement legislation written in both bills, this union is in full support, not because we will benefit from it, and we will, but because it meets that incentive which is needed to keep skilled employees working in Panama for the next 5 or 10 years or until they have been able to train their replacements. It is not out of a pleading for fairness or merit that I ask for your support on this issue but out of simple economics. It is far cheaper to use a skilled in-place work force to train their replacements, than it is to replace a significant portion of that workforce with others that will surely be unfamiliar with the specialization of running the canal.

It is out of fairness and merit that I request that you amend the special immigration portion of the bill adopted to include transfers right to other Federal agencies within the United States. I am aware that this right has been given to Vietnam immigrants, I have no doubt that it has also been given to Cubans as well as many other nationals that meet certain skill or language needs of the United States. I doubt that 90 percent of the present work force would take advantage of this right given a time limit in which to act. Panamanians, like U.S. citizens, regardless of the economic conditions, still prefer to live in their own country.

There are, however, certain Panamanians living and working in the Canal, who have a justifiable and necessary need to immigrate to the United States, their leaving would also serve the best interests of the Panamanian and U.S. governments. They are only asking that they not be thrown out into the cold, after their services have been used in the interest of the United States, They wish to continue their service with the U.S. Government in a meaningful way and not be subjected to the relief or unemployment so common to newly immigrated nationals that enter the United States from other countries.

Another area that need to be addressed is the employee civil protections during the transition period. The agency contemplated expanding the Canal Zone police liaison unit in order to deal with this matter.

Through extensive experience over the last several years, I can safely state that an expansion of this unit cannot and will not give these employees the protections intended or expected. The present purpose of the liaison unit is to work with, and gain good relations with the Panama National Guard, it is not now nor has it ever functioned as an ombudsman unit for the Canal employees. It is an investigative



unit subject to the particular politics of this area. For example, in the last several years, this agency has not presented a single human rights case, real or imagined, that was not first exposed to the Congress by this union. There has not been one human rights violation example given to this committee today covering the last 12 months. Surely this committee is aware that these problems still exist. An ombudsman with congressional access and overall oversight is what is needed to assure these employees that they will be fairly treated when confronted by the Panama justice system.

In closing, Mr. Chairman, this union has done its best to present views that are only constructive and, under the circumstances, in the best interest of the United States and the Republic of Panama. The Congress of the United States need only adopt these views and they may be assured of a reasonably efficient running Canal.

We will be glad to answer any of your questions regarding this presentation.

Mr. WILSON. Mr. Chairman, I wonder if Mr. Drummond would allow us to ask him a few questions now.

There are some serious problems that have been raised in your statement and our time is running very, very short. We might be able to get to some of these points if we were allowed to ask a few questions. Would you object to that?

Mr. DRUMMOND. No, sir, but I would like to bring out there is a pile of paper here.

The CHAIRMAN. The gentleman makes a point. We do have the time problem. It is not the intent of the Chair to close you off. I suggest that any additional information be put in letter form to the committee and at that point the committee may have some questions for you.

I want to give you the assurance that we are not walking away from this problem, the Congress is not walking away from it. That is the reason we are here today.

As I said earlier, our mission is to assure that fairness prevails and hopefully to put to rest any apprehension that employees have in association with the implementation of this legislation.

Now, the two bills that you have alluded to will both be subject to the hearing process. This is the beginning of this process today. So, we have a rather long route to go prior to a markup.

Your testimony is on record and will be subject to review, again by this committee. I appreciate very much your input. You make some very valid points. It certainly is not the intent of the Congress to jeopardize the career of anybody who has dedicated time and effort to the cause of the U.S. Government.

I want to give you that assurance this morning.

Mr. Derwinski?

Mr. DERWINSKI. Mr. Chairman, as I understand the situation, we took Mr. Drummond's paper and placed it in the record and then he added his comments. Since the record, to historians, will read on that basis, I would just like for the record to make this necessary observation of your prepared paper. It is a rather unique piece of work.

Specifically, the other witnesses told us, the pilots told us that they were people of unusual skill and aptitude and dedication and they were needed for years to come, running the canal as they have in the past.

We were told about the unique and unusually good medical services, of the fine housing, and the reasonableness of the commissary.

Reading your paper, you tell us, and I quote, "For the last 20 years the Canal Zone police division has presumably been training new employees to become competent officers." Then you go on and make the charge that policemen to survive their 1-year trial period stay out of sight or ingratiate themselves with supervisors.

You make comments about female officers. Then you go on and say that your complaints have been ignored. Now I quote you more specifically. "The worst thing that could happen to this canal is to carry forward, as contemplated, the present Panama Canal personnel manual." Then at another point you speak of a need to keep all the skilled personnel.

You conclude that oversight is needed to assure these employees that they will be fairly treated when confronted by the Panama justice system.

Now, as I sort of wrap up your statement, you have told us that by failure to criticize anyone else, I assume that everything in the canal, every unit and every subdivision functions to near perfection but for at least 20 years or more the police unit has been an absolute mess, but it is going to be preferable to the Panamanians when they take over.

So, with all due regard to your position paper, sir, I would say that it is totally inconsistent. It smacks to me more of deliberate exaggeration than a constructive presentation to the committee.

Quite frankly, if the situation in the police department is as bad as you say it has been in the last 20 years, dozens of heads should have rolled by now.

I just can't give it the credence that it will have in the record. For the record, I would like to say that I am unimpressed by this kind of testimony.

Mr. DRUMMOND. Mr. Derwinski, if I could answer your statement. The purpose of this pile of paper here—and I am not privileged to make statements without backing them up with facts—in that context I have a number of documents here dealing with the specific statements that I have made that will substantiate what I have said in that paper.

I would like to present it to the committee as exhibits.

The CHAIRMAN. Without objection, the material that you have on the table will be received for committee review.

Mr. WILSON. Mr. Chairman, I have a little different reaction to Mr. Drummond's statement than my good friend Mr. Derwinski. I am disturbed, Mr. Drummond, by the statements you make on page 3 about the fact that after 20 years the Canal Zone police division has no labor relations policy.

Not only do they counsel probationary employees not to join or affiliate with this union as a condition of future retention, but they also make it clear to these and tenured employees not to join, affiliate or become active union members as a condition of promotion and selection for schooling.

Now, you have a lot of documentary proof of what you are telling us here, is this true?

Mr. DRUMMOND. Yes, sir.

Mr. WILSON. I will let Mrs. Schroeder take care of your comments about the women, but seriously, do you have any reason to feel that the Canal Zone Company or the Panama Canal Company

has interfered in any way with the right of employees to affiliate with the union?

Mr. DRUMMOND. That is the allegation I am making, with substance, sir.

Mr. WILSON. Is that right, that the Governor and the Company itself can be identified as having discouraged people from becoming affiliated with the union?

Mr. DRUMMOND. You mentioned the Governor. I mention in my statement here that this is prevalent at the division and lower unit level.

When I speak of division and lower unit level, I am speaking of the police specifically. We get into this rubberstamping higher up. We also have a problem here of communication.

Mr. WILSON. Let me assure you that we will definitely go through the documents that you are submitting to the committee. I know there are other members that want to make comments or to ask questions, but you struck a note with me at least and I intend to follow through on your allegations.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Taylor?

Mr. TAYLOR. I have no questions, Mr. Chairman.

The CHAIRMAN. Mrs. Schroeder?

Mrs. SCHROEDER. I think I might submit some written questions for the record.

The CHAIRMAN. Fine.

Mr. CORCORAN. I have just one question, Mr. Chairman.

I wonder, Mr. Drummond, if your associate Mr. Royo could answer the question.

What do you envision happening to the non-U.S. citizens who are in the law enforcement field? What would you expect most of the people like yourself will be doing after October 1?

Mr. ROYO. The majority of us want to stay here. We don't want to go to the States. We would like to get another job with the commission and keep on working and maybe raise our percentage toward retirement.

Mr. CORCORAN. Thank you.

The CHAIRMAN. Thank you, Mr. Corcoran.

Mrs. Spellman?

Mrs. SPELLMAN. No questions, thank you, Mr. Chairman.

The CHAIRMAN. If there are no further questions, gentlemen, our appreciation for your appearance this morning. Thank you very much.

The committee stands adjourned until 10 tomorrow morning. [Whereupon at 1:22 p.m. the committee adjourned, to reconvene at 10 a.m., Saturday, February 17, 1979.]



## H.R. 1716 AND H.R. 111—TO IMPLEMENT THE PANAMA CANAL TREATY

---

SATURDAY, FEBRUARY 17, 1979

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,  
BALBOA TRAINING CENTER,  
*Balboa, Panama Canal Zone.*

The committee met, pursuant to recess, at 10:20 a.m., Balboa Training Center, Balboa, Panama Canal Zone, Hon. James M. Hanley (chairman of the committee) presiding.

Members present: Representatives Hanley, Wilson, Schroeder, Spellman, Derwinski, Taylor, and Corcoran.

The CHAIRMAN. The committee will come to order.

We reconvene this morning for the purpose of continuing the hearing initiated yesterday. At the conclusion of yesterday's activities, unfortunately, we could not accommodate two witnesses scheduled for appearance with us. They are first up today.

We appreciate your accommodating our rather difficult schedule yesterday. Thus, the first witness this morning will be Mr. William Sinclair, representing the American Federation of State, County, and Municipal Employees.

May I ask Mr. Derwinski if he has any comments?

Mr. DERWINSKI. I think the gentlemen have been very patient and I hope we can listen to them fully this morning.

The CHAIRMAN. Mr. Sinclair.

STATEMENTS OF WILLIAM SINCLAIR, AREA DIRECTOR, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, ACCOMPANIED BY LUIS ANDERSON, SECRETARY GENERAL, AFSCME LOCAL 907 AND SATURNIN MAUGE, PRESIDENT, AFSCME LOCAL 900

Mr. SINCLAIR. Thank you, Mr. Chairman.

My name is William H. Sinclair, Panama representative for the American Federation of State, County, and Municipal Employees, AFL-CIO. I am accompanied by Mr. Luis A. Anderson, secretary general of Local 907, Armed Forces Employees Union, and Mr. Saturnin G. Mauge, president, Local 900, Panama Canal Company-Canal Zone Government Employees Union, affiliates of AFSCME.

Our combined organizations represent approximately 5,000 dues-paying members, employed with Department of Defense agencies and the Panama Canal Company operating in the Republic of Panama.

Our membership is organized on an industrial-type basis and encompasses professional, semiprofessional, white-collar, and blue-

collar workers of both nationalities. We welcome the opportunity afforded by the Subcommittee on Post Office and Civil Service of the House of Representatives to testify on provisions of the proposed legislation to implement the Panama Canal Treaty of 1977, specifically, the areas relating to employee benefits and welfare.

Our executive boards and membership welcome the members of this subcommittee to the Republic of Panama and hope that your stay is pleasant and productive for all concerned.

Two major bills, H.R. 111 sponsored by Congressman John Murphy, and H.R. 1716 sponsored by the executive branch, are designed to provide for the operation of the canal until the year 2000 and to implement the Panama Canal Treaty and related agreements.

The following are the areas we wish to address. They represent the major concerns of our memberships in the aforementioned proposals.

#### EMPLOYMENT SYSTEM

Section 142, subsection (b) of the Murphy bill, and section 303, subparagraph (b) under "Section 142 Panama Canal Employment System" should be deleted in its entirety because it establishes the possibility of applying dissimilar employment systems to the different agencies of the U.S. Government operating in the Republic of Panama.

We strongly feel that this opens the door to the inequities of the past in which employees performing similar or identical duties received unlike benefits based on the whims and fancies of the various agencies.

We recommend that the employment system outlined in both bills be applied uniformly to all executive agencies operating in the Republic of Panama.

#### LABOR-MANAGEMENT RELATIONS

Sections 303 of the administration bill and 225 of the Murphy bill establish that whichever labor-management relations policy is adopted by the U.S. Government agencies shall have incorporated therein provisions of sections 7102, 7106, 7116, 7120, and 7131 of chapter 71 of title 5, United States Code.

These sections are highly restrictive because they limit the operations of labor unions and reduce collective bargaining to a mere formality, to create the illusion of compliance with a fundamental right of workers in any democratic system.

This system may be tolerable within the Federal sector in the United States where salaries and fringe benefits are determined by Congress, influenced by powerful lobbying of U.S. labor organizations, which for all practical purposes is a form of bargaining.

Locally, the implementation of such a system would be a regressive step. It would carry us back to the days when non-U.S. citizen employees did not possess the legal channels to protect their interests and as a result their rights and benefits were curtailed.

In addition, the aforementioned sections of title 5 are diametrically opposed to the general principles contained in the labor laws



of the Republic of Panama and thus violate paragraph (2) of article VII of the agreement in implementation of article IV.

This section should be deleted for the reasons mentioned above. In lieu thereof, we urge that a task force comprised of representatives of the executive agency and labor organizations hold discussions pursuant to establishing a labor-management policy that will provide full scope collective bargaining.

#### EARLY RETIREMENT

Section 325 of the administration bill and 205 of the Murphy bill establish the following:

(a) Involuntary retirement—18 years service at age 48, or 20 years service at any age.

(b) Voluntary retirement—18 years service at age 48 or 23 years service at any age.

The provisions above will be applied equally to all employees of U.S. Government agencies in the Republic of Panama with the exception that the voluntary retirement provision excludes employees of the Department of Defense unless they were transferred from the Panama Canal Company/Canal Zone Government as a result of the transfer of functions to be effected upon entry into force of the new treaty.

The canal administration feels that this measure is necessary to retain highly qualified personnel after October 1, 1979, and, in addition, that the Company/Government will suffer a major reduction in force due to treaty implementation.

We feel that the second reason stated in the paragraph above also applies to the Department of Defense. Even though it is not established in the treaty, we can logically conclude that military bases in the present Canal Zone will be reduced in number and size as the Republic of Panama assumes greater responsibility in defense of the canal, especially so as we approach the year 2000 when supposedly all U.S. military bases will close with the resulting loss of all jobs.

On the other hand, even though the Panama Canal Commission ceases to be a U.S. Government agency in the year 2000, the Canal will continue operating, thus insuring jobs for those employed at that time.

Regarding the immediate impact of treaty implementation on the present DOD work force, the following should be considered:

One, the transfer of functions by the Company/Government to DOD will bring about the displacement of workers presently employed by DOD.

Two, DOD has notified us that after the 30-month transition period when non-U.S. citizens will no longer receive medical attention at the military medical facilities—transferred from Pan-Canal on October 1, 1979—there will be a reduction of no less than 750 employees who will have retention rights throughout DOD, thus again displacing present employees.

Three, when U.S. postal and DOD commissary privileges are withdrawn from Panama Canal Commission, U.S. citizen employees, 5 years after the entry into force of the treaty, a similar reduction as described in (two) above will take place.



It is easy to visualize the devastating social and economic impact on the lives of many young and highly skilled graduate apprentices and trainees, clerical and administrative personnel, and many others that will be left jobless and without sustenance, forced by the saturated labor market in the Republic of Panama to emigrate and thus robbing the canal effort of human resources available locally and that are vital for the accomplishment of the fundamental purpose of the treaty.

It would be naive to ignore the chain reaction effect that this would have on the Panamanian economy presently struggling to stay afloat and which will require a substantial amount of time to stabilize, even when influenced by the direct and indirect economic boost provided by the new treaty.

The social and political connotations that could and most probably will arise from this situation are too grave and far reaching to be ignored.

Arguments presented by management supporting the limited application of the proposed provisions to DOD employees ignore the fact that treaty provisions imply in their intent and spirit the phase down—gradual or otherwise, as determined by the executive branch or the Pentagon—of the U.S. military presence in the Republic of Panama.

It is logical to assume that as the National Guard increases its expertise and defense capability the U.S. defense role and mission in the area will diminish, consequently reducing their personnel needs, hence reduction in force.

Consequently, younger or new employees cannot and will not visualize employment in DOD agencies as a career because the possibility of finding themselves out on the streets without jobs and adequate means of living up to their economic commitments is too real. The possibility of undergoing the traumatic effects of a RIF action will be ever present, enabling them to plan ahead or to establish their roots.

In view of the aforementioned, and adding a number of other similar circumstances that will develop, we feel that voluntary retirement should be afforded to present DOD employees as a means of reducing the impact of said reduction in forces and to be able to retain the services of highly skilled younger employees.

Also, of special consideration is the fact that only non-U.S. citizens will be affected by the reductions since U.S. citizens who are affected will be relocated in the United States.

#### NON-U.S.-CITIZENS RETIREMENT UNDER SPECIAL TREATY PROVISIONS

Section 329, subsection (c) of the administration bill which implements paragraph 2(b) of annex C of the Agreement in Implementation of article IV, authorizes the purchase of a nontransferrable deferred annuity for the benefit of each employee of U.S. forces—see section 329(c) of administration bill.

It is obvious that this provision, especially in regards to eligibility, violates the spirit and language of the treaty. It has been the product of unilateral interpretation of annex C of the cited agreement on the part of the U.S. Government.

During negotiations which resulted in the present treaty, it was agreed that all non-U.S.-citizen employees working for U.S. forces in the Canal Zone would receive retroactive retirement coverage for all periods of employment with said U.S. forces during which they were not participating in a retirement program.

This retroactive payment was to be made to the Social Security Agency of Panama as outlined in paragraph 2(b) of annex C of the Agreement in Implementation of article IV.

If this portion of the bill were to pass as is, it would leave more than 50 percent of the employees involved without retroactive retirement coverage. The United States was committed by the 1955 treaty to provide retirement coverage for non-U.S. citizens employed by their forces in Panama—see attached letters from the U.S. Army Commander in Chief and Adjutant General, dated 1957 and 1958, respectively.

In open violation of said treaty they failed to comply until 1975. Even then, they imposed eligibility criteria leaving more than 80 percent of the employees without coverage. This is the situation today, a blatant injustice that can and should be corrected.

The vehicle to accomplish the aforementioned would be the utilization of language contained in section 207, subsection (c) of the Murphy bill, which adequately interprets the subject provisions of the treaty and provides for just and equitable recognition of the many years of dedicated service of this group of employees that have been until the present dealt with as though they were the black sheep among all U.S. Government Federal employees in the Republic of Panama.

All efforts should be utilized to insure that language of the Murphy bill in section 207 be used in whichever bill is finally enacted by Congress.

It is necessary to point out that we have tried for many years, unsuccessfully, due to hardcore opposition of local administrators, to include this considerable number of employees in the social security system of Panama. The stipulations in annex C of the Agreement in Implementation of article IV of the treaty was considered to be a major gain for the affected employees.

The history of Panama Canal construction was written with the workers' blood. Its efficiency throughout the past 64 years and its contribution to contemporary civilization is the product of dedication and efforts on the part of the workers that have toiled, sometimes under severely unfavorable conditions.

Gentlemen and ladies of the subcommittee, let us assure you that continued efficient operation of the Panama Canal depends primarily on the existence of a work force satisfied with acceptable working conditions and who feel secure and protected in their jobs. Above all, that their rights and benefits are respected and that the commitment made by the Governments of the United States and Panama during treaty negotiations to respect such rights be fulfilled.

We, therefore, urge you to comprehensively examine and take into account the recommendations set forth in this presentation as you deliberate and decide on this all-important issue. They are the true concerns of the vast majority of the Panama area work force.



We prepared this testimony based on the advice of your staff people regarding the areas of consideration. But based on testimonies presented yesterday, other issues were raised and we feel that we have the obligation to make supplementary comments. Mr. Anderson on my left will read a short supplement covering those points.

Just before I get off the record, I reported to my headquarters last night briefly on this hearing yesterday. The international president asked me to convey to this committee in very clear language, so that you do not leave here under any false impressions, that these unions we represent here were created by the Panama Canal Company or the DOD. We built these unions as unions are built. If anybody thinks that our unions here were created by management, they have another thought to come up with.

I am sure the Governor will not believe anyone who says our unions were created by him. Any of you who know Jerry Wurf will know that he would never accept the affiliation of any union that has any company mark on it.

Thank you very much.

The CHAIRMAN. Thank you, Mr. Sinclair.

Mr. Anderson?

#### STATEMENT OF LUIS ANDERSON

Mr. ANDERSON. Mr. Chairman and members of the committee, due to a misunderstanding of instructions given by staffers of the committee prior to the hearings on February 16, certain items of interest to AFSCME Locals 900 and 907 were deleted from our original testimony. We, therefore, request that the committee accept and introduce into the record our views on the subjects, as follows:

#### EARLY RETIREMENT COMPUTATION

Sections 326 of the Executive Proposal and 206 of Congressman Murphy's proposal should be amended to extend coverage of the therein contained provisions to employees of the U.S. forces in Panama.

This is consistent with our views on the early retirement provisions and is primarily aimed to provide equity and justice throughout U.S. Government agencies in the Republic of Panama.

In addition, it is our belief that the very delicate mission of adequately protecting the Canal cannot be accomplished efficiently if the civilian component of said forces are denied the same benefits that are offered to their counterparts as a whole.

To establish differences in benefits afforded between groups of employees of the same employer is not only unfair, but also derogatory to the employees that are denied the benefits.

#### COST OF LIVING ALLOWANCES

Sections 324 of the administration bill and 124 of the Murphy bill provide for the payment of an allowance to offset the increased cost of living which may result from the withdrawal of the eligibil-



ity of the employee to use military postal services, sales stores and exchange facilities 5 years after entry into force of the treaty.

This provision is applicable only to U.S. citizen employees. We believe that it is highly discriminatory not to provide the same benefit for non-U.S.-citizen employees who will lose purchasing privileges on 1 October 1979, and as a result will suffer a loss in buying power and a lowering in their standard of living.

We request that this group of employees also be provided with an allowance to offset the increased cost of living.

#### INAPPLICABILITY OF CERTAIN BENEFITS TO CERTAIN NON-U.S. CITIZENS

Section 328 of the administration bill and 127 of the Murphy bill excludes non-U.S. citizens hired after 30 September 1979 from U.S. Government-sponsored group life insurance (FEGLI). This has come about due to their coverage under the social security system.

However, Panama social security does not provide life insurance coverage and as a result these new employees will be deprived of a basic benefit that can have a far-reaching effect on their families. Since the apparent intention was to avoid duplicating the benefits offered by the Panamanian social security, FEGLI should be afforded all new employees.

#### WAGES AND WAGE SYSTEMS

The most virulent of all discriminatory practices is wage discrimination. This is a fact because of the myriad connotations associated with this deplorable practice. Since the end of the 19th Century when the Panama Railroad was under construction until the present, the canal non-U.S. work force has been subjected to wage systems and practices that are discriminatory.

Paragraph (1) of the Memorandum of Understanding between Panama and the United States, dated in January 1955, attempted to correct this situation.

However, Public Law 85-550 of July 1958, in implementing the provisions of said memorandum, failed to capture its spirit and intent, creating a wage system in the canal area that was highly sophisticated but invariably unequal and unjust.

The existence of the U.S. wage base versus the Canal Zone wage base systems and the application of a tax factor that reduces the salary of non-U.S. citizen employees instead of adding to that of the U.S. employees, as was the intent of the Memorandum of Understanding, is a glaring example of the inequities that concerns us.

The administration of the different U.S. agencies in the Canal Zone have officially announced their intention of introducing a local rate wage system applicable to employees hired after the entry into force of the new treaties, compounding instead of correcting an evil of the past.

This proposal is inconsistent with the rules of fair play and justice that have made the United States a world leader. It is inconsistent with the policies of respect of the individual and his inherent rights. It reduces the concept of equal pay for equal work to a mere myth, and above all, it will constitute, if implemented, a

very serious obstacle to the continued efficient operation of the Panama Canal.

We ask this committee to introduce provisions in the implementing legislation that will once and forever do away with the injustices of the past, creating for the first time in the history of the U.S. involvement in the Republic of Panama true and indiscriminate pay parity. This would be in keeping with the spirit of the new treaties, specifically paragraph 6 of article X which states:

With regards to wages and fringe benefits there should be no discrimination on the basis of nationality, sex or race.

### TRAINING

Paragraph 3(b) of Article X of the new treaty provides for the establishment of training programs for Panamanian employees and apprentices in order to increase the quantity of Panamanian employees that are qualified to occupy positions with the Commission, as they become available.

To the best of our knowledge, there are no provisions in either legislative proposals to implement the aforementioned.

Section 154 of title II of the Canal Zone Code that refers to training in the Panama Canal Company/Government has not been amended to conform with the new requirement.

We, therefore, respectfully request that the proposed legislation be amended to provide for the requirement as stated in the treaty. In addition, we suggest that said amendment should include the establishment of a special office or division to administer and monitor such training programs as may be required, given the vital importance of this issue for the United States, Panama and the users of the canal.

Thank you very much.

The CHAIRMAN. Thank you very much, Mr. Anderson.

Gentlemen, I remind you that this, of course, is the first hearing that this committee has conducted on the subject matter. Up to this point there have been no definitive decisions, of course. That is the reason that we are here.

You, of course, have made some excellent points during the course of your testimony today. I can only allude to the final paragraph of Mr. Sinclair's testimony where he requests that we comprehensively examine and take into account the points that you have made. You have my assurance this morning that this is the intent of this committee.

Further, I can only reiterate what I said yesterday, that our mission is to assure that those presently employed are going to be treated fairly.

I have but one specific question and I go back to your reference, I believe on page 8, where you use the percentage figure of 50 with respect to employees and the retroactive retirement coverage.

I wonder if you might expand on 50 percent and how you arrived at that figure?

Mr. SINCLAIR. I will ask Mr. Anderson, the president of the union, to comment on that point.

Mr. ANDERSON. Mr. Chairman, the 50-percent figure is an approximation. There is no way to really determine the exact figure.



We arrived at the 50-percent figure because presently there are approximately 82 percent—and those are statistical figures—of employees in the Panama Canal Company that are not covered by any retirement system but to their employment status which is the basis for the eligibility criteria.

Studies made by us indicate that the figure will be approximately 50 percent of that 82 percent.

The CHAIRMAN. Well, I ask the question because our professional staff attempted to make that mathematical calculation and found it extremely difficult to do so. I wondered what methodology you had employed in arriving at that. But you have answered my question.

Mr. ANDERSON. Sir, if I may expand on it, I don't know what figures your staff used, but the administration bill establishes the same eligibility criteria that is now in existence for retroactive coverage for the payment of a deferred annuity which is not the intent of the treaty.

The intent of the treaty is coverage for all employees who are not covered by the retirement program. The administration bill refers us to payment of a deferred and transferable annuity.

The eligibility criteria for that payment of deferred annuity is the same that is in existence now for participation in the program. So, therefore, approximately 50 percent, according to our figures, of the 82 percent will be left uncovered without the retroactive coverage.

The CHAIRMAN. Thank you, Mr. Anderson.

Mr. Derwinski?

Mr. DERWINSKI. You gentlemen were all here yesterday. In fact, you were patiently waiting for your turn.

You know from time to time members indicated that they asked for further information which you could provide in a little more detail in due time. I would like you to go through your statement, Mr. Sinclair and Mr. Anderson, and give us any estimates that you can of the cost of your recommendations because you appreciate the fact that budget items become a major factor.

It would help us analyze your recommendations if you could give us at least a general figure as to what you would anticipate the budget impact might be. If you do that, it would be helpful to us.

Mr. SINCLAIR. Mr. Derwinski, you have touched a point that goes deep to my heart. If we were involved in collective bargaining with the administration over the years, we would have known about those figures. But since the administration and the agencies felt that it was their right to advise and consent, then it was our right to demand, and that is what we did.

We have always said, and I told the Government here when they asked me that question, I said to go to the agency's books. They never allowed us to see their books so I can't answer that question. Up to this point, in the absence of full scope collective bargaining, it was our duty to demand.

I would like to say I know the good lady from Maryland. I think Mrs. Spellman mentioned yesterday during the hearings about the cost of this retirement program.

One of our U.S. citizen members said to me yesterday, U.S. citizen employees pay taxes and so do Panamanian employees pay



taxes. The Panamanians pay to the Panamanian Government. The money the non-U.S.-citizens pay goes to the Panamanian Treasury. That money is used for social services of the country: Police, firemen, et cetera. The money that the U.S. citizens pay into the U.S. Government goes to the Treasury, but the social services in the Canal Zone are provided by the operation.

So this guy said to me, well, tell the good lady that she can get \$10 million a year that the U.S. citizen pays to help finance the retirement program. So that is one of the answers we are giving you from one of our members.

As he said, the money that we pay is now being used. If you go into Panama—I don't know where you are living now, but I am sure you saw the policemen there and the firemen to protect you. So we are paying for your comfort.

We say, well, that is one source of the money. When you talk about money, here, again, you are near to my heart.

Our position has always been that this is a source of service to the world and the tolls should pay for the operation of this canal. The same way a country has oil and decides it wants more money, then they use their resources. Well, the resources here are two: The geographic position and the canal.

I hear a lot of arguments which I consider to be hogwash that if tolls go up, ships won't come through. I said the same thing about my car. When I paid 39 cents for gas I said if it went up to 50 cents I would park my car. Today I am paying \$1.15 and I see more cars on the road than ever before.

I don't believe this theory. If ships pay more tolls, they will still come. So I say we don't wish to have anybody pulling money out of the workers' pockets to finance this operation.

If you said, and I agree with you, if I were a citizen of the United States, I would not want my country to be financing the operation of the canal, I agree with you that the U.S. Government should not appropriate money to operate the canal. But I certainly don't agree that the workers should pay for it. Let the shipping industry pay for it. They use the canal and let them pay. We are paying ourselves now. Let us pay through that source, not from our pockets.

Mr. DERWINSKI. Thank you.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mr. Wilson?

Mr. WILSON. Mr. Sinclair, I saw a news show yesterday afternoon after we completed our work. Mr. Royo was being interviewed and he was asked about this implementing legislation, what he thought of it, and whether he agreed with it, and so forth.

He passed it off as if it was something that was completely unnecessary and that it really didn't make any difference whether we passed it or not because the treaty was the law.

Now are you in agreement that there is no need for any implementing legislation, that we can forget the whole thing?

Mr. SINCLAIR. I will refer to what my colleague said yesterday, we are labor leaders. The political questions, I think you gentlemen are more qualified than we are to determine that political question. So we would refrain from stepping out of our labor suit today to get involved in any political questions.

Mr. WILSON. Well, I think that the question is going to have to be answered. I appreciate your position, Mr. Sinclair. I think that each of you gentlemen have expressed yourselves very well and have certainly presented yourselves as true union people, unlike the people who were here yesterday. I think the reputation of the union you represent is sound and that you are a very fine union.

Would you be satisfied if all of title VII of the Civil Service Reform Act were included in this bill? Would that take care of the labor needs?

Mr. SINCLAIR. No, sir.

Mr. WILSON. You feel that there is more that should be required than that?

Mr. SINCLAIR. The way we feel, we have expressed it 1,000 times and we will continue to do so. We feel that title VII, as I said in my statement, might be tolerable. It might be tolerable within the United States, and our union as you know very well is very efficient at lobbying in Congress, and we know that through the Congress and other ways of putting on pressure the unions can get the wage increases, et cetera.

You will notice we did not make too much noise on the question locally because after the 1955 treaty went into effect and Public Law 85-550 became the law of the land, we went over the heads of our administration and lobbied in Congress through our national union. We did the same in minimum wage. We disregarded management.

However, on the minimum wage, when we pushed for that minimum wage in 1959 we pushed to get the minimum wage established here in the private sector to avoid the company putting out all the work on contract and getting low wages.

When it was working the other way around, we said it was time for the Federal employees. So in 1966 we lobbied for that. I personally was up there. Our people were there day after day.

We cannot do that now after October 1. So since we cannot do that, we want collective bargaining. The same way you gentlemen and ladies sit down in Congress and have something to say on your wages and benefits, you bargain on your wages and benefits, so give us that right.

Why should somebody sit down and unilaterally tell us this is what you are going to get and we have nothing to say about it? We say, all we ask is that you give us the same right you have. Since nobody tells you what salary you make, then give us the right to bargain across the table.

Mr. WILSON. For the benefit of everybody else, the Congress has had its last pay raise.

Mr. SINCLAIR. In answer to your question, title VII is not acceptable to us.

Mr. WILSON. I am one who is not apologetic about the pay I get, either.

The CHAIRMAN. If the gentleman would yield at that point, I don't believe that you would exchange with the Congress the benefits that you receive percentage-wise from 1969 to 1977 as opposed to what the Congress receives. The Congress receives zero.

Mr. SINCLAIR. Then you should give us at least some credit for being alive and aware, you know. You ought to join our union.



Mr. WILSON. Would you be more pleased, if you had collective bargaining similar to the postal unions?

Mr. SINCLAIR. I would like that. Give us the Postal Corporation collective bargaining and we will kiss you.

Mr. WILSON. Well, I don't want to be kissed, but I do want to compliment you, Mr. Sinclair, particularly for the strong statement that you make about financing for the additional costs.

I agree 100 percent with you that it should come from the tolls and from the fees that come from the Canal. It should not come from the taxpayers.

Mr. SINCLAIR. I agree with you, sir.

Mr. WILSON. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Taylor?

Mr. TAYLOR. I have no questions, Mr. Chairman.

The CHAIRMAN. Mrs. Schroeder?

Mrs. SCHROEDER. Thank you.

I want to compliment you on your testimony. I think you were very articulate. I have lots of questions, again, that I would like to submit for the record because my subcommittee does have jurisdiction over labor management relations. We are very interested in your opinion on title VII. I want to ask a couple of quick questions.

Why do you think you will be able to do better negotiating with the Department of Defense than other non-U.S.-citizen unions have been able to in other foreign countries?

Mr. SINCLAIR. The same question was raised when the postal union wanted collective bargaining and they are doing pretty well. We have confidence in our ability to negotiate with the Defense Department.

The question was asked why are you afraid to bargain with us, and he said, because you will beat us. I promise you I will beat him.

Mrs. SCHROEDER. I think you might.

The other question I have is one I think we should think about a bit. That is, why should we in the United States really be saying what terms you should negotiate under at all? In other words, why shouldn't it be Panamanian law after the treaty takes effect on October 1? Why are we even discussing this?

Mr. SINCLAIR. I agree with you lady, and I will tell you this much: We are not afraid to negotiate under Panamanian law or any other law. In Panama and every country in Latin America—and I worked through all of Latin America. Part of my duties are to work throughout the Western Hemisphere—you have some of the lousiest possible wages, but you have some of the highest wages, too. It depends on the ability of the enterprise to pay.

If we had in the Republic of Panama a company like the Panama Canal Commission, the minimum wage would be probably \$5 an hour because the company has the ability to pay. If we are dealing with the Panama Canal Company, you would have a sliding wage scale.

So the brewery workers do not earn the same minimum as the guy who works in a market. The same is true with the refinery workers. It is wherever the ability is there.



So wherever you go in Latin America, including Panama, you have many Panamanians who would never consider working in the Canal Zone as a source for a career. Unfortunately, there are not many of those jobs, so we cannot kill the guy to take that job from him. We have to wait until he dies.

But if we draw in this hemisphere the ability of the company to pay and the ability of the union to negotiate, that is where you have the wage structure.

One of the things that we are trying to do through the international trade secretariat is to correct, if we possibly can, this same low wage situation that prevails in Latin America. It would be naive for us to believe that we can always continue to go up and up unless others come up with us.

So yours truly works part of his time in Panama trying to get money out of the administration and the Defense Department and throughout Latin America doing the same thing.

Mrs. SCHROEDER. So you would be happy, as a union, if we didn't put anything in?

Mr. SINCLAIR. I would have no objections. I would be happy for that.

Mrs. SCHROEDER. Thank you.

The CHAIRMAN. Thank you, Mrs. Schroeder.

Mr. Corcoran?

Mr. CORCORAN. Thank you, Mr. Chairman. I have one question.

You testified that you have about 5,000 members. I wonder if, in your evaluation of the legislation that is before us and the liberalized retirement benefits that are being proposed, you could tell us about how many of those 5,000 would elect to take early retirement and how many would stay with the company?

Mr. SINCLAIR. I do not foresee any exodus of anybody. As long as the worker has a job that is paying him good and good conditions, he will stick to it. There will be some who will take early retirement if it suits them.

Putting myself in this position, if I could get early retirement in my job and go across the street and get another job to increase my income, I will do so. But I do not foresee a mass exodus of people just because the ability is there.

Mr. CORCORAN. You are just like us, none of us want early retirement either.

Mr. SINCLAIR. I want early retirement if I can get it.

The CHAIRMAN. Thank you, Mr. Corcoran.

Mrs. Spellman?

Mrs. SPELLMAN. I am going to go back for just a moment to what you said about the union itself.

You can tell Jerry Wurf that we didn't for a moment expect that you were a company union when he is part of it. Any of us who know Jerry Wurf know that. You remind me so much of my dad, what he used to be like, so if I look at you with fondness, please understand. You look like him and you have the confidence that he had and I just love you. I think you are great.

I worked for some years in labor-management relations, so I know exactly what you are doing. You have to ask for the most you can possibly get.

On the other hand, I do want you to understand what we are going to be faced with. We are going to be faced with going back to a Congress that has not had the opportunity to sit here and look at you and love you as I do. They have not had the opportunity to meet with these people and to hear them. They are living in a different world and we are going to have to go back with a package that we are going to be able to sell.

Now there are a lot of people there who are going to want to demagog this whole question anyway. They are going to be wanting to make brownie points with the hardhats in their districts and many of them who may agree with you, even maybe some right here at this table, may, in order to do what they consider to be representing their constituency, may be taking some very hard positions.

I said to the General this morning that we are going to have to turn things around. We are somehow going to have to get across that the real hardhat position is to vote for implementation because anything else is a total giveaway. We are going to have to change that.

So do keep in mind that when we go back we are going to try to go back with a package that has a chance of being sold and it may not have everything in it that everybody wants.

I found myself last night, after listening to some very persuasive people, and one of the gentlemen is right in the audience now, I found myself afterwards having to say, hey, you are forgetting where the real world is because it is very easy down here to forget the big picture.

You somehow get the feeling that this is the big picture. But when we go back to Washington we are going to be hit with reality.

So, as our chairman pointed out, we are going to want to do the best we can for you. And sometimes the best we can do is to modify things so that we have a chance of getting passed what we want. Because when things start getting carved up on the floor of the House, you always come out with a far worse package.

I did want you to understand that and I do love you.

Mr. SINCLAIR. Thank you very much. I love you, too. I will say this: You can count on our unions. We are going to try to help you.

The CHAIRMAN. Thank you, Mrs. Spellman.

Mr. Sinclair and gentlemen, on behalf of the committee our deep appreciation for your excellent testimony, for your effort and your willingness to help us with this task. You have our gratitude.

Mr. SINCLAIR. Thank you very much.

The CHAIRMAN. Our next witness this morning is Dr. Jules Kolodny as vice president of the American Federation of Teachers.

I understand that Dr. Kolodny is accompanied by Ralph Sheppard, president of the American Federation of Teachers Local 29.

Gentlemen, we are delighted to have you with us this morning.

**STATEMENT OF JULES KOLODNY, VICE PRESIDENT, AMERICAN FEDERATION OF TEACHERS, ACCOMPANIED BY RALPH SHEPPARD, PRESIDENT, AMERICAN FEDERATION OF TEACHERS, LOCAL 29**

Dr. KOLODNY. Mr. Chairman and other committee members, before I get into the substance of the issue that confronts us, I



want to thank you for holding this in Panama so that I could leave my subzero temperature at least for a few days.

The CHAIRMAN. You are more than welcome, doctor.

Dr. KOLODNY. Let me say at this particular point in the testimony, I am going to deal specifically with those problems that are applicable to the educational community which our members are involved in, local 29 of the American Federation of Teachers.

I do not want to leave any inference that it is my intention to imply that the Canal Zone Federation of Teachers and its parent organization does not support completely the previously submitted position of the CLU-MTC, with which local 29 is affiliated.

I first want to direct my attention in connection with the support of section 321 of the administration bill regarding protection of the rights of transferred employees.

As you know, article 10 of the Panama Canal Treaty states the terms and conditions of employment will in general be no less favorable to persons already employed by the Panama Canal Company or government prior to the treaty.

The fact that this article does not protect employees who will be transferred to the Department of Defense functions has already been used to guide decisions relating to pay, working conditions, and other labor benefits in a seriously adverse manner.

I urge very strongly that section 321 of the administration bill be broadened to grant complete protection to transferred employees by including continuation of the Washington, D.C., pay system including future raises for the present Canal Zone educators.

Additionally, the Department of Defense has swung a broadside to cut other benefits which were obtained after many years of efforts.

I need not remind you that with respect to the Washington, D.C., system, that was what brought many people from the States who, after having completing their educational requirements for teaching and who may have had some experience in teaching in one or another jurisdiction, saw fit to come here and that in moving away from that complete system of salary structure, the intent of not making any diminution in benefits and salaries is being violated.

Now, since other DOD teachers do not presently have sabbatical leave, the present Canal Zone teachers also shall not continue to have sabbatical leave.

At the present time, sabbatical leave at half pay has been granted to Canal Zone teachers after completion of 6 years of service. The purpose of sabbatical leave is, of course, to allow our teachers to upgrade their educational knowledge in accordance with new techniques that are being developed.

The educational system must not be interred in state of immobility. If our teaching staff in the zone does not continue to educate themselves, it is our whole system, especially the students, that will suffer.

The justification for sabbatical leave may be found in almost any publication by or for professional educators. It is common practice in educational school districts, universities, colleges throughout the 50 States of the Nation.

In addition, the cost for the school system is practically self-sustaining due to the fact that the teacher who takes advantage of



sabbatical leave is probably near or at the top of the pay scale while the replacement hired for the sabbatical year is usually a teacher at the entry level.

Savings between the two salaries will almost compensate for the half salary that is paid to the recipient of sabbatical leave.

I also want to remind you that, in my judgment—and I have been involved in looking at and evaluating educational programs, that the system down here is, in my judgment, one of the best. I would want to keep it so in the years ahead.

An additional deprivation of benefits is the extension of the school year from 184 to 190 days. Although the Department of Defense has offered additional compensation for these days, the overseas location of our teachers and the scheduling of the school calendar again serves to prevent teachers from continually updating their education.

Here we are really asking that we want the days for purposes that they can be used rather than the dollars. To find a union saying we will forgo additional dollars which management is prepared to offer is a strange situation indeed.

What happens is that when the teachers have an increased calendar it prevents the teachers from continuing to update their education.

Colleges and universities in the United States do not alter their summer schedules to fit the whims of other scheduling agencies. Thus, early starting dates and late release dates seriously affect individual rights.

That is why practically no school districts, nor universities, and colleges, and community colleges in the States, maintain more than approximately 180 days of schooling and some go up to 184. Very, very few go up to 190 days because it interferes with the ability of people to enroll in the initial session of an early summer session.

If you tack the additional days on at the end, then it makes it difficult for them, if not impossible, to enroll in the late session because they have to return to school when courses are still being conducted on the college campus.

The proposed implementing legislation does not provide for housing for the personnel being transferred to the Department of Defense or other executive agencies after the initial 5 years of the treaty.

This particular provision is not solely applicable to the people in the educational community, and you have heard this before.

This matter should be considered in order to provide either housing or adequate housing allowances for those transferred employees after this 5-year period.

An adequate housing allowance would be considered the difference between the Panama Canal Commission housing and utilities rates and the costs of comparable housing and utilities on the local economy.

Section 323 deals with the authorization of educational travel benefits for dependents of Commission personnel. Again, the proposed implementing legislation is providing different treatment to Panama Canal Commission employees and the employees who are being transferred to DOD or other executive agencies.

Present employees who will be transferred should be extended the same entitlement.

President Carter emphasized that quality of life in this area should not be lessened. Although operation of the Canal Zone College has been authorized by the Department of Defense for the immediate future, it appears that long-range operation is not, in fact, assured.

Loss of this facility would certainly be considered a decrease in the quality of life that is presently enjoyed in this area. Therefore, we ask that statutory authorization be provided in this legislation for future continuing operation of the Canal Zone College.

I now draw your attention to section 325: Early retirement eligibility. Over the past several decades it has been generally recognized that teachers do move from State to State, community to community, and from local or State to Federal service.

Many States, at least 36—and I dare say from those 36 many are the home States of some of the members sitting at this hearing, as well as the District of Columbia—have provided legislation to allow teachers to buy into the pension system of the area into which they move.

You may, of course, question why this matter is being broached as a part of the implementing legislation. Actually, the buy-in proposal was introduced in the 95th Congress as H.R. 7761.

We have been informed that the Postal and Civil Service Committee, after due consideration, recommended that these legislative goals should be considered as a part of the implementing legislation.

Because a large percentage of the teachers in the Canal Zone are in their late forties or fifties, they can ill afford to lose these creditable years of service. This legislation will encourage teachers to remain in the Panama area knowing that they will have enough total years in the States, as well as in the Zone, for an annuity on which they may at least survive.

This particular item cannot be over-emphasized as being one of our prime interests. Additional written justification is attached to be submitted for your record.

Section 330(e) states that section 1(b) of the act of April 14, 1966—20 U.S.C. 903(c)—and section 6(a) of the act of July 17, 1959—U.S.C. 904(a)(2)—are inapplicable to teachers who are presently employed by the Canal Zone Government immediately prior to the effective date of the treaty and are transferred to the Department of Defense Overseas Dependent School System.

In addition, we desire that it state very precisely that the present pay system of Washington, D.C., schools be established as the permanent pay base for all eligible teachers, but should include counselors, librarians, and school officers. Our membership includes school officers up to the vice principal.

I desire to submit for the record report No. 2149, 85th Congress, 2nd session, House of Representatives. This report clearly defines the intent of Congress that Canal Zone teachers should not be separated from the Washington, D.C., pay base.

Finally, in conclusion, let me just summarize that if sabbaticals, which are a basic part of their benefit program in the zone, are eliminated, if they are not on the Washington, D.C., base schedule,



then in those two areas alone there would be a very sharp diminution in their benefits as they now experience them which is contrary, it seems to me, to the intent of the treaty and should be incorporated for protection purposes there.

The only thing that is being asked that is not in fact a benefit at this moment is the one I referred to, the right to buy into the pension system. I think since that is almost a universal right elsewhere in the States between all sorts of service, and since there has been such a sharp change growing out of the treaty, and because of the age group of the people whom I am speaking for and on whose behalf I am addressing you, I would hope that you would see your way clear to incorporate the right to buy into such pension benefits, whether in the Federal service, State service, school district service, State university service, or what have you, as is the practice elsewhere.

So, I am hoping that we can accomplish these things. Except for remarks on housing, the things I have addressed myself to are applicable to the members of the educational community. You have not heard them from others before and you are not likely to hear them from others after I leave this table.

Thank you very much.

The CHAIRMAN. Thank you, Doctor.

Was it the intent that Mr. Sheppard was going to also offer testimony?

Mr. SHEPPARD. I am here to respond to any of your questions.

Dr. KOLODNY. He is a resource person in the event you ask something specifically about the Canal Zone with which I was unfamiliar.

The CHAIRMAN. With respect to the material that you alluded to, without objection that will be contained in the committee files.

When that teacher entered the service here, did the teacher come in as an employee of the Panama Canal Zone or the Department of Defense?

Dr. KOLODNY. The Panama Canal Zone, to the best of my knowledge, has been working here under the Panama Canal.

The CHAIRMAN. The teacher applied to enter as an employee of the Panama Canal?

Dr. KOLODNY. There may have been a teacher who wrote to the Department of Defense and said do you have any vacancies and they may have said Hawaii, Guam, Midway, or Germany, but that has no relationship to the canal.

They would have to address their application directly because the DOD had absolutely no relationship to the schools and the community college in the Canal Zone.

The CHAIRMAN. So there are no DOD teachers in the Panama Canal Zone, that is what you are telling me?

Dr. KOLODNY. That is the fact.

The CHAIRMAN. Thank you.

Whatever the source of your information might have been, I judge it to be incorrect, "We have been informed that this committee, after due consideration, recommended . . ." Well, this committee didn't offer any recommendations.

Dr. KOLODNY. I think Mr. Sheppard has some documentation to the contrary. Here is a letter addressed to the Honorable Robert N.



C. Nix, who was chairman of the House Post Office and Civil Service Committee at that time.

The letter is dated June 30, 1978. It comes over the signature of Bill Alexander, Member of Congress. If I may read the letter into the record. It is not too long.

DEAR MR. CHAIRMAN: I wanted to take this opportunity to again call to your attention my interest in having the legislation Ralph Metcalfe and I are sponsoring included in the implementing legislation on the Panama Canal treaties which the committee will present to the full House for consideration late this year or early next session.

The legislation, H.R. 7761, amends the retirement provisions of Title V, U.S. Code, to include as creditable service for purposes of the Civil Service retirement system, certain periods of public school service outside of the Canal Zone by individuals who become subsequent to such provisions for public school service within the Canal Zone.

I would appreciate your keeping Henry Woods of my staff advised of the committee action in this regard and wish to have an opportunity to be heard on this particular issue when the committee begins work on the implementing legislation.

Thank you for your continuing cooperation. With kindest regards, I am sincerely.

As I said, the letter was signed by Bill Alexander.

The CHAIRMAN. What was the response to the letter? That was a request.

MR. SHEPPARD. Mr. Chairman, we are informed by Mr. Alexander's staff, possibly in error, that it had been considered by Congressperson Spellman's subcommittee and it was decided it would probably be considered at this time.

It possibly is an error that it refers to the entire committee.

Mrs. SPELLMAN. Yes; if I may comment on that, Mr. Chairman.

The CHAIRMAN. Mrs. Spellman.

Mrs. SPELLMAN. We felt that since it concerned the Panama Canal Zone and that the treaty and all of what we are involved in now was coming up, that we did not want to move ahead to muddy waters.

We thought that the whole thing ought to be looked at at the same time.

The CHAIRMAN. But there were no specific recommendations made?

Mrs. SPELLMAN. No; it was not a recommendation. It was just that we would not consider it at that time. This is the time to talk about it.

Dr. KOLODNY. It may well be that the statement that I read into the record was a little broader than it should have been. If it has not been considered by the full committee, one of the purposes of my addressing you was to ask that it be considered as a vital part of what should be included.

The CHAIRMAN. There is a rather broad interpretation in the letter because your letter suggests that recommendation of these legislative goals—and I don't believe that was the case. That is not that important.

I must say that to clarify the record that formally the committee did not offer a recommendation that these legislative goals be embodied in the legislation. We would not be doing that until subsequent to the hearing process, of course.

Dr. KOLODNY. I would hope that you will give it sufficient consideration now that we are in this particular session and that it will be incorporated in your recommendations.

The CHAIRMAN. Well, you can be assured that it will be given every consideration. I can only repeat to you what I have said to others; that is, our mission is to assure that fairness prevails.

While we have you handy, let me ask you one other unrelated question; what is the position of your association with respect to the institution of the Department of Education?

Dr. KOLODNY. The American Federation of Teachers is opposed to the Department of Education. We do think that the present relationship to the larger HEW brings education into other walks of life to which it is in some sense related and it has served us well to date.

We have not always liked everything they have done, but that is not what I am talking about. I am talking about the organization and the structure. I am not talking about particular pronouncements of particular directions they have taken.

But governmentally, we are very much opposed to the erection of an independent Department of Education.

The CHAIRMAN. I see. I should like to also remind you that you have alluded to sabbaticals and housing, as you may know, that of course is a prerogative of that particular area commander in whatever theater he is serving to determine what benefits accrue to that particular set of teachers.

This is one of the problems that we have had with the educational program, the traditional concept of our educational program housed under defense because of the diversity it traditionally has had.

Dr. KOLODNY. That may be true, but I would like to point out that you are not facing a situation in which you move people from a different agency where this right existed and move them into a Department of Defense where it may or may not have existed.

When I allude to the excellent school system that they have here, I am firmly convinced, and I cannot tell you what percentage of the improvements this system has had over the years is due to the fact that its teachers are on their toes by virtue of that sabbatical right.

But to take it away is not only to hurt the culture and environment of the school system of the entire Canal Zone, and we are not dealing with any real sums of money, either. We are dealing with a principle.

The CHAIRMAN. If I might interrupt the gentleman, I don't have to be sold on sabbaticals. I have been a long-time proponent of them. I think it is essential to a quality system. But I just cite that this happens to be a little problem that we have had forever under the concept of education housed under the umbrella of DOD.

Mrs. SPELLMAN. Would the chairman yield?

The CHAIRMAN. I will be glad to yield.

Mrs. SPELLMAN. I think it might be encouraging to everybody to know that during our oversight hearings on teachers abroad we have recommended to DOD that sabbaticals be made available to teachers throughout the world, American teachers throughout the world, because we feel that when they are teaching our children, wherever they are, especially when they are in foreign countries, they need to have some time to get back into the stream of things.



The Department of Defense is moving to implement that recommendation. It does appear to me that we can talk with the Department of Defense and say to them, now these people are definitely to be kept in the status that they have now with sabbatical leave available to them or else we will put it into the legislation.

I don't really have any problems with doing it either way. Putting it into the legislation might give the Department of Defense the precedent that it needs to do the same for teachers throughout the world.

Dr. KOLODNY. And it would make us happy, too.

Mrs. SPELLMAN. Whatever we can do to make you happy, we want to do it. But I am in full agreement with the chairman that sabbatical leave, especially in situations like this—I must admit that in the States our teachers are not getting sabbatical leave, but when they are abroad they really do need to be able to get back into the stream of things.

The CHAIRMAN. Doctor, it would appear that you have two friends with respect to sabbatical leave anyway.

Dr. KOLODNY. You cannot win them all all the time, but at least I have my foot in the door.

The CHAIRMAN. Who knows, you may have all of them.

Mr. Derwinski?

Mr. DERWINSKI. Mr. Sheppard, do you have any figures about the length of the average service of the teachers now on the staff here and what experience they had before they accepted the positions in the schools here?

Mr. SHEPPARD. I can only give you the figures that we took in a straw poll at our 1st meeting on a percentage basis. It appears we have something like 10 percent of the staff who may be able to buy in for the full 10 years. Approximately half of the staff of 600 some teachers would have some interest in buying into the bill.

Mr. DERWINSKI. Do you have any ideas as to what—I want to reemphasize the question—what teaching experience in terms of years of service your teachers had before they came down here?

Mr. SHEPPARD. It ranges from anywhere from zero to many years. We are only asking in the buy-in provision for them to be able to purchase up to the maximum of 10 years, which is the same as the Washington, D.C. group, which they presently have.

Mr. DERWINSKI. Did those who were NEA members before they came here adjust painlessly to being represented by your group?

Mr. SHEPPARD. I believe their adjustment has been excellent because we, in our opinion, give them much better representation.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mrs. SPELLMAN. May I get equal time as a former member of NEA?

The CHAIRMAN. I want to advise that you are going to have some time coming up shortly but at the moment the time is that of Mr. Wilson of California.

Mr. WILSON. I have no questions. I thank the gentleman.

The CHAIRMAN. Mr. Taylor?

Mr. TAYLOR. I wonder if you would comment briefly on the Canal Zone College, what its curriculum is and what the enrollment is.

Dr. KOLODNY. I am not as familiar with the curriculum and I will defer to Mr. Sheppard, but it is a 2-year community college whose



campus is located here. Many of the children of the people on the Canal Zone who work for one or another function here, do have their children going to the college for the 2 years.

Afterwards, those credits can be transferred to a 4-year institution starting in the junior year. It is a very significant part of the life of the society in the culture here and its elimination, it seems to me, would create a great vacuum.

Mr. TAYLOR. It is a fully accredited college?

Dr. KOLODNY. It is a fully accredited college, to my knowledge.

Mr. SHEPPARD. It is accredited by the Middle States Educational Association. It is a fully accredited college. The majority of the courses lead toward associate degrees in various fields. They do have two 4-year courses in the medical technician area.

All of their courses are acceptable at stateside institutions when they transfer from here to the United States.

Mr. TAYLOR. Do they have vocational-technical training in the college?

Mr. SHEPPARD. I would like to submit that to you at a later time, the exact coverage on vocational training. I do not personally know of any vocational-technical training. The majority of the training there, except for the laboratory technicians programs, are based on strictly college preparatory courses.

Mr. TAYLOR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Taylor.

Mrs. Schroeder?

Mrs. SCHROEDER. Thank you.

I want to thank both of you for being here.

Could you tell me, are all the teachers here American citizens?

Mr. SHEPPARD. No, ma'am.

Mrs. SCHROEDER. What percentage is Panamanian?

Mr. SHEPPARD. I would say approximately 12 percent of our teachers here are Latin American teachers.

Mrs. SCHROEDER. If you are saying Latin American derivation, do you mean Panamanian or somewhere in Latin America?

Mr. SHEPPARD. Many are Panamanian, but not because they desire to become Panamanian. A lot of them are descendants of people who have built the Canal, have educated themselves and have taken positions in the school system and have spent long years in the organization.

Mrs. SCHROEDER. But they are Panamanians?

Mr. SHEPPARD. Yes.

Mrs. SCHROEDER. Can you tell me what percentage are female?

Mr. SHEPPARD. The ratio of teachers, we probably have 60 percent female teachers in the organization.

Mrs. SCHROEDER. One of the things that I notice you did not mention in your testimony that I kind of wondered about and wondered why you did not mention it; that is, the possibility of RIFs.

It looks as though there are going to be fewer children over the next few years to teach. Is that something that you have already worked out or that you are not concerned about or are we just looking at it differently?

Dr. KOLODNY. It would be impossible to say that a union is not concerned with any reduction in force, obviously, as a result of a

decrease in registration or enrollment. I did not direct my attention to it because I thought it would be the normal practice in unions of educational circumstances.

Statutory provisions in most of the jurisdictions in the States call for it being done in inverse order of seniority. That is the kind of thing I just took for granted.

Mrs. SCHROEDER. Do you have any projection for what percentage of the teachers will be affected by RIFs in a fairly short period of time?

Mr. SHEPPARD. We do not believe that there will be a reduction in force. However, we do have an agreement with the Department of Defense schools, which we are not completely satisfied with, that the teachers from here will be considered on a priority basis before additional hires are made by the Department of Defense.

The one kicker in that is that if they do go to the Department of Defense in any other area, they will have to go at the reduced Department of Defense rates. Of course, that is not going to be acceptable to the individual teachers, but that is the agreement we presently have with the Department of Defense.

Mrs. SCHROEDER. Does that cover the 12 percent that are Panamanians, that agreement?

Mr. SHEPPARD. No, ma'am. The Department of Defense elsewhere hires only U.S. citizens. Anything they make to cover the school system here will be an exception to Public Law 86-91.

Mrs. SCHROEDER. What percentage of the teachers here are engaged in the college?

Mr. SHEPPARD. We have approximately 8 percent of the teachers here engaged in the college. A larger number of those teachers are engaged in the college on a part-time basis.

Mrs. SCHROEDER. If we were to give you the right to bargain under the new treaty implementation, I take it you don't think you could do as well as the D.C. scale?

Mr. SHEPPARD. I might point out that as stated in Dr. Kolodny's testimony, the fact that the Department of Defense has said, and they placed it in writing, that the groups being transferred to the Department of Defense are not entitled to any protection under article 10, for that reason the agreement that they have come up with, to sort of halfway "grandfather" our pay, has been used to decrease our benefits.

Mrs. SCHROEDER. What is the difference between your wage scale here and the Department of Defense wage scale?

Mr. SHEPPARD. At the bottom of the wage scale it is approximately \$4,000 a year per teacher. At the top it is approximately \$8,000 a year per teacher.

Mrs. SCHROEDER. So you are worried if we gave you the right to bargain they would try to bring you down?

Mr. SHEPPARD. No. We want the right to bargain. We are in full accordance with the right to bargain, the same as the position of the AFSCME.

Mrs. SCHROEDER. But you want the D.C. scale as a floor for your bargaining?

Mr. SHEPPARD. We want protection for that base level at least. I would say we have a very strong bargaining unit in the Washing-



ton, D.C., area, a member of AFT. We would be satisfied with the bargaining on wages that would be done by that union.

Mrs. SCHROEDER. You want the right to bargain, right, but you also want it coupled with the D.C. wage scale?

Mr. SHEPPARD. I think that if you will refer back to Mr. Graham's answer to questions of the committee—it may have been your particular question—he mentioned the fact that we may not particularly desire to bargain on wages, per se, but on wage systems.

The wage system we are speaking of is the Washington, D.C., wage system. So, if we could continue that basis, we would completely concur with Mr. Graham's statement.

Mrs. SCHROEDER. Thank you.

The CHAIRMAN. Thank you, Mrs. Schroeder.

Mr. Corcoran?

Mr. CORCORAN. Thank you, Mr. Chairman.

I would like to address my questions to Mr. Sheppard.

It is my understanding that the school system in the Canal Zone is a very high quality one. What would you give as some of the reasons for that?

Mr. SHEPPARD. I would say that we have had in the past teachers that have been hired into the system with certain high qualifications. For instance, in our secondary schools, long before other school systems had it, they required a master's degree for a secondary school teacher.

They have instituted many programs here in special education, additional programs in the kindergarten programs, the Canal Zone College, and there is no other Department of Defense system that has a college.

All of these things, and the sabbatical program, very strongly have encouraged our teachers to keep up their qualifications and provide the education we believe the students are due.

Mr. CORCORAN. Then I am a little confused. If I understand your testimony, you are also asking us to include in the implementing legislation, as a model, the Washington, D.C., school system. I don't know of anybody who thinks that that school system is an excellent system.

I wonder why you want us to use that as a model for retirement, pay, and other considerations for the employees.

Mr. SHEPPARD. The Washington, D.C., school system was not picked originally at our behest.

Mr. CORCORAN. What was your request?

Mr. SHEPPARD. We had no choice in it. It was a unilateral decision that the way that the educational system was set up here, we must base it on a U.S. wage system. The system in Washington, D.C., was lower than other educational systems within the Federal Government. They picked that wage system and put it on us.

During the period of years since that system was placed here, they have managed to raise the wages to the head of the other systems. The Department of Defense for years has objected in this area to the per capita cost for students. At the present time it appears that the Department of Defense is attempting to use the treaty as a justification for having the teachers in the Canal Zone



paid the lower, so the students can be educated at a lower per capital cost.

The Washington, D.C. pay system is the system we presently have. All through the treaty negotiations we were assured, including our national headquarters and from the White House, that nobody is going to be adversely affected. The system that DOD is presently attempting to impose on us is a much lower pay system than we presently have. That is certainly a diminution of our benefits.

Mr. CORCORAN. Thank you.

The CHAIRMAN. Thank you, Mr. Corcoran.

Mrs. Spellman?

Mrs. SPELLMAN. Do I get the impression that DOD has actually already said to you we intend to cut you back to the regular pay scales?

Mr. SHEPPARD. Not to the regular pay scale, no, ma'am. They have come up with an agreement between Michael Blumenfeld, the Under Secretary of the Army, as the best that they will possibly offer us. It is to establish the system that is in Washington on the date of the treaty as the best rate.

Our classroom teachers will continue to get their step increases, but they will only receive one-half of the DOD rates for a like step.

Now as you know, the cost of living is up. We have a 5.5-percent cap on wages, but the cap on wages for the Canal Zone teachers is going to be at that rate, 2.75 percent in the future years. So we have automatically another adverse effect because of that decision.

Mrs. SPELLMAN. I see. That is interesting. We will have to look into that. You have a number of proposals here.

Have you been able to figure out what the cost will be on these?

Mr. SHEPPARD. We have submitted some estimates on the cost in the past. I believe there are some of the figures that are contained in the attachments to the records here. If not, we can work out further figures.

There is, of course, the possibility that with some of the retirements that would result as a result of this, new teachers who would come in and be hired, although we don't necessarily agree they should be hired at DOD rates, the difference between the new teachers will more than pay the cost of the program.

We have not offered this as a program to allow teachers to leave the area. We are offering it as a program to attempt to get the teachers to stay here and enhance our educational system.

Mrs. SPELLMAN. Have you had any feedback as to the number of people who might be leaving? I have talked with only maybe about six teachers. Each one of them gave me the impression that he or she would be waiting to see what happens to the school system before any decision is made.

Do you have any idea of how many people might be leaving as a direct result of this treaty?

Mr. SHEPPARD. I know of a certain number of teachers who specifically will leave, regardless of what happens, because of the change in jurisdiction. They are fearful, right or wrong, of the conditions. They will leave. The actual figures of other people are going to depend on, as you say, on the buy-in program, on how we

come out with the maintaining of the Washington, D.C., pay raise and the sabbatical leave programs.

But the majority of our teachers at the present time feel that the administration has not lived up to their promises that our teachers will not suffer. Of course, we have the very adverse factor in the States, facing reality. That is, the teacher employment program is not in the States. They can't all run up there and get a job tomorrow.

So the Department of Defense right now feels they have us over the barrel and we are forced to see what they offer.

Mrs. SPELLMAN. Yes; I can tell you things are pretty bad around the States when it comes to the hiring of teachers. We are busy closing schools in a great many of the jurisdictions, as you probably know very well.

Have you put in here the figures on what the buy-in proposal would come to, also?

Mr. SHEPPARD. I would have to review the package, but we do have some.

Mrs. SPELLMAN. I won't take your time now. You will make sure that we have those figures?

Mr. SHEPPARD. Yes, ma'am. We will submit them to you if I don't find them in here.

Mrs. SPELLMAN. Thank you.

The CHAIRMAN. Thank you, Mrs. Spellman.

Dr. Kolodny, Mr. Sheppard, our deep appreciation for your contribution this morning. You have been most helpful. Be assured of our absolute consideration of your position.

Dr. KOLODNY. Thank you very much.

The CHAIRMAN. Thank you.

Our next witness today, Mr. Gary Hudson, president, the Coco Solo-France Field Civic Council.

Mr. Hudson, I believe, is accompanied by Mr. Kenneth Hannah and Mrs. Victoria McCauley.

We welcome you to the hearings. We look forward to your testimony.

**STATEMENTS OF GARY HUDSON, PRESIDENT, COCO SOLO-FRANCE FIELD CIVIC COUNCIL, ACCOMPANIED BY KENNETH HANNAH, CRISTOBAL-MARGARITA-BRAZOS HEIGHTS CIVIC COUNCIL, AND VICTORIA McCAULEY, PRESIDENT, GATUN CIVIC COUNCIL**

Mr. HUDSON. Thank you very much. Welcome to the Canal Zone.

My name is Gary W. Hudson, and I am president of the Coco Solo-France Field Civic Council. I have lived in the Canal Zone since 1969, and I am an elementary school teacher.

The civic councils were established by the Canal Zone Code to serve as a means of aiding communication between the people of the Canal Zone towns and the administrators of the Company and government. Today I am speaking for the towns of Coco Solo, France Field, and Gatun.

We are particularly concerned with matters of health, education, housing, commissaries and retail stores, grounds, and the police and judicial system under which we live. Essentially, we are con-



cerned with those things that affect the quality of life of the employees and their families in the Canal Zone.

Obviously, it is difficult to directly address these matters with reference to the legislation that is under consideration, but we would like to make two specific points.

First: We would like to comment on title III, chapter 1, section 301, of the administration bill referencing that training programs to be applied uniformly to employees regardless of citizenship would be inconsistent with provisions of the treaty concerning increased employment and training of Panamanians.

We understand the need for this, but we feel there still must be opportunities for our own U.S. citizens to be included on the basis of a fair ratio. We ask that the terminology "increased employment and training" should not be interpreted so as to exclude U.S. citizens.

Second: With reference to chapter 3, section 341, on postal matters, we strongly believe that all U.S. citizen employees should continue indefinitely under the military postal system. We would like an assurance that we will continue in a system as efficient as we have now.

There is nothing else in both packages of legislation that we as a community can specifically address because of the lack of specific information that we desperately need to plan for our futures, either here or in the United States.

The treaty guarantees that the U.S. citizen workforce and their families continue to have certain community rights and services which should not be minimized. The assurances that we have received over the past 3 or 4 years must be complied with.

Specifically, our nonprofit organizations, such as churches and clubs, are an extremely important part of our Canal Zone life. There are over 300 of these organizations. In the very near future these organizations may very well become extinct, not by the fact of their ability to continue to operate legally, but by the fact that the cost of operating them could become prohibitive. We would expect that there would be fewer people in these clubs and churches because many of us will leave soon. Therefore, the per member costs of operating will increase at an even greater rate.

A recent survey of potential financial costs indicate that they will increase by a factor of 31 to 65 percent. Just the electric rate is expected to treble. At this kind of tremendous increase, these organizations will effectively have to cease functioning.

This would certainly have an extreme impact on the quality of life we now have. This affects directly and indirectly every person who resides in the Canal Zone.

Many of the citizens of the Canal Zone question the good faith of the Department of Defense as to their operation of the Canal Zone College. While DOD has said they will operate the college, it is apparent that they do not wish to be saddled with the responsibility of doing so and will let it die in a very few years.

The single most serious concern that we Canal Zone residents face is the matter of our personal safety once we come under the jurisdiction of the Panamanian police and judicial system.

We have just received a copy of a report from the Organization of American States, dated June 1978, and titled, "Report on the



Situation of Human Rights in Panama." This report documents that the Panamanian Government is guilty of the violations of the full range of human rights in Panama.

Many of us will leave the Canal Zone rather than to have to live in constant fear of our personal safety and the safety of our families. Many of us have sons and daughters that we feel would have to be severely restricted in their movement in the area because of the fear we as parents hold for their safety.

We have been relatively free and safe in the Canal Zone. The city of Colon, adjacent to our communities, in contrast, has been experiencing a high rate of crimes against the person. With the phasing out of the Canal Zone Police force, the burden for our personal safety and the safety of our property will become the responsibility of the Guardia Nacional.

The Canal Zone will be ripe for plucking. Already they come by land and sea to break into our storage areas and steal from around our quarters. Soon the Guardia Nacional will have a much greater area of responsibility for patrol that will tax their ability to protect us as we feel we deserve. At this time of much uncertainty, it is imperative that we be kept informed as decisions are made that affect our lives. There are those of us that wish to remain in the Canal Zone. May I state I am one of those. But we must be concerned for our families and futures and must have information so as to make rational decisions to plan for those futures.

Thank you.

The CHAIRMAN. Thank you, Mr. Hudson.

Mr. HUDSON. Mr. Hannah has a comment.

#### STATEMENT OF KENNETH HANNAH

Mr. HANNAH. Yes. My name is Kenneth Hannah, Cristobal-Margarita-Brazos Heights Civic Council. I would like to make an oral summary of my testimony.

The Margarita Civic Council has asked that the computation for retirement after October 1, 1979, be increased to 5 percent as an incentive instead of 2½. It asks to incorporate into the implementing legislation the 25-percent overseas differential for all U.S. citizens.

Our council had also requested that the 25 percent overseas differential be incorporated into the implementing legislation not only for (1), the head of the household, but all U.S. citizens who are employed. They request that post office drop boxes, as little as it may seem, that the post offices being located at Fort Davis, particularly on the Atlantic side, we would have to go 5 or 6 miles to mail a letter. We have such drop boxes now located in communities which will become the Commission communities.

If we continue these drop boxes for postal services, it would save a lot of time and similarly be a convenience.

Our council requests that there be established a Bureau of Complaints, that these U.S. citizens be made accessible to the Canal Commission, the U.S. Embassy, and the U.S. Congress.

Our Council endorses H.R. 7761, the language within, as it applies to the establishment of teachers within the school system. Many of our military people have come back for extra tours of duty

simply because of the excellence of the schools. This would be a factor that would be a stabilizing factor in our community.

About the only thing we have left in the zone now that is truly American are the U.S. schools. Our people have expressed concern over Public Law 86-91 which is included in my testimony that makes the first qualification for a teacher of U.S. citizens under the DOD school system a U.S. citizen. We are very much concerned with this.

As mentioned earlier in earlier testimonies, the physical security is of utmost importance to the citizens. Our members ask that as the U.S. population decreases, that we be placed in compounds within each Commission community with the U.S. security patrol 24 hours a day.

It also asks to be incorporated in implementing legislation a cost-of-living allowance which the bills provide for after 5 years and after the loss of PX privileges and other privileges.

We are vitally concerned with the quality of life as it applies to us here because we, like other citizens, must have some recreation. It can't be all work and no play. We must have theaters, and swimming pools, and other recreational facilities.

Our council has also asked that the Commission continue the warranties on such products as refrigerators, air-conditioners, and other appliances now purchased and being used in Canal Zone homes.

We think these requests are honest and that they have merit. We invite you all to visit our Atlantic side communities.

[The prepared statement follows:]

#### PREPARED STATEMENT OF KENNETH H. HANNAH

GENTLEMEN: Welcome to the Canal Zone. My name is Kenneth H. Hannah, president of the Cristobal Margarita, Brazos Heights Civic Council.

The Margarita Civic Council believes that the recommended implementing legislation on employee retirement is better than the present plan. However, we recommend that the retirement computation after October 1, 1979, be increased to 5 percent. We also recommend that the overseas differential be increased to 25 percent and given to all U.S. citizens.

We also recommend that implementing legislation be modified to confirm the literal meaning and interpretation of article XV (Taxation) of the "Agreement in Implementation of article III of the Panama Canal Treaty" which already has Presidential and Senatorial acceptance, and which says that "United States Citizen employees and dependents shall be exempt from any taxes, fees, or other charges on income received as a result of their work for the Commission. Similarly, they shall be exempt from payment of taxes, fees, or other charges on income derived from sources outside the Republic of Panama". We feel that this article binds the United States no less than it does Panama and should be recognized as binding to the U.S. in an amendment to implementing legislation now being considered by Congress.

We also recommend in the implementing legislation U.S. Post Office drop boxes within each Commission Townsite. Further, we recommend the continuation of our present health insurances and at the present rates along with our present hospital facilities.

We recommend a "Bureau of Complaints", composed of U.S. citizens in each townsite. This Bureau of Complaints should have direct access to the Canal Commission Board, U.S. Embassy and the U.S. Congress.

It is recommended that all U.S. citizens in the Canal Zone be given priority hiring and transfer rights into the U.S. system. This should also apply to the hiring and transferring of U.S. citizen teachers into the Washington, D.C. School System.

Since the DODDS Schools are financed directly by U.S. taxpayers, we recommend the application of P.L. 86-91. It applies to U.S. citizens with U.S. degrees to teach U.S. Dependent pupils of U.S. citizens, overseas. The only exception that is made in



the area of teaching the native language of the native country in which U.S. citizens reside.

The Margarita Civic Council approves the adoption of H.R. 7761 (now defunct). It approves all provisions within this resolution. This bill is commonly known as the teacher buy-in bill for purposes of retirement, up to ten years service. Since Canal Zone Teachers are based on the Washington, D.C. Wage Base and since the Washington, D.C. Teachers have had this buy-in program since 1920, we feel it should apply equally here. The Canal Zone Teachers have only one half of this privilege. They can transfer into the Canal Zone Teaching System up to ten years, but for the purpose of salary steps only, not retirement benefits. This bill would stabilize the U.S. School System here and would therefore enhance the education of U.S. students. We also recommend the transfer of the railroad service to be combined with that of the Canal Zone Government.

Physical security and fire protection is important to the U.S. citizens who remain within the Canal Commission area. As the U.S. population decreases, we recommend that U.S. citizens live within a compound in each Commission Townsite with a U.S. Security Patrol twenty-four hours per day.

We recommend that the U.S. citizen, within the Canal Zone Commission area, have in addition to a "Bureau of Complaints", direct access to a liaison person within the U.S. Embassy. This immediate service is of vital importance to our citizenry.

As the costs of living increases within the Canal Commission Area, we recommend in addition to each citizen receiving the full 25 percent overseas differential, that an additional cost of living allowance be given to off-set cost conditions.

It is recommended that all of the Warranties on all products purchased from the Canal Zone Government Company be continued under the Canal Commission. It is further recommended that guarantee repair, replacement, of all purchased products and services be further guaranteed with a noncharged installation of substitute items while the warranty item is in the process of repair. (That is, free installation of substitute car battery, air-conditioner, et cetera, while warranty item is under repair).

The Council recommends that a high standard of the quality of life facility program be established and maintained by the Canal Zone Commission for the life of the treaty. Such facilities are to include Civic Councils, churches, fraternal organizations clubs, swimming pools, bowling alleys, tennis courts, youth centers, skating rinks, movie theaters, gun clubs, saddle clubs, boating facilities, hobby shops, libraries, sport facilities for both youths and adults, bazaars, flea markets, and any other not herein mentioned.

The above mentioned recommendations, we believe, would contribute to the efficient operation of the Canal which we assume is one of your PRIME objectives. We would further like to call your attention to the fact that this treaty is not of the choosing of the American people, either those U.S. citizens on the mainland, nor those residing and employed in the Canal Zone, and therefore any signatory to the treaty itself, or to implementing legislation of this treaty is in direct violation of U.S. Constitutional Rights of U.S. citizens here who in effect are having their employment services transferred to a foreign government. You may say we have the option of leaving. We do not have this option without committing economic suicidal destruction, thus we cannot call this a genuine "free choice."

We believe that it is high time that our elected representatives in Congress place top priority on the welfare of the "tax-paying" citizen.

We cordially invite you to the Atlantic Area of the Canal Zone so that you may say you have fully visited the entire Canal Zone, and if you wish we will make it possible for you to discuss these concerns and recommendations with our people.

### STATEMENT OF VICTORIA McCAULEY

Mrs. McCAULEY. The paper Mr. Hudson read to you represents the attitudes of the people of Gatun as well as the Cristobal-Margarita-Brazos Heights Civic Council.

The CHAIRMAN. I want to thank you people for your appearance this morning. You cover much turf in your testimony, particularly Mr. Hudson.

As you know, we have a specific area of jurisdiction dealing with issues pertinent to Federal employees. Congress is, of course, concerned about the umbrella effect of the treaty on American citizens



in Panama and the Panama Canal Zone. We are going to fulfill our responsibility with respect to title III of the implementing legislation. That is the responsibility of this particular committee and we intend to fulfill that responsibility, once again I reiterate, to assure that fairness prevails.

With regard to the quality of life in the future for those who reside here, the Panamanian Government is going to assume, of course, quite a responsibility.

It was indicated during the course of treaty negotiations that it is going to assure that people in the zone are going to enjoy a decent quality of life and that essentially the quality of life throughout Panama is going to improve.

As I understand it, that is fundamentally their interest in acquisition. We hope and pray that that will be the case. We do not have a crystal ball. We cannot speculate on what the future may bring. Hopefully, the Federal Government will fulfill its responsibility to the extent possible.

I can only assure you that within our given area of jurisdiction this committee will indeed fulfill its responsibility.

The CHAIRMAN. Mr. Derwinski?

Mr. DERWINSKI. Thank you, Mr. Chairman.

The geographic areas that you folks speak of are all on the Caribbean end. It is my understanding from comments I have heard the last few days that there seems to be a bit more of a crime problem in the Colon area than there is in, say, the Panama City side here?

Mrs. McCAULEY. Colon does not have the income that Panama City has. Therefore, you have a lot more very, very poor people. They don't have the stores and the sources of income. Therefore, there is an increased rate of robbery and physical violence than there is I would say in Panama City.

Mr. HUDSON. I cannot comment on that.

Mr. DERWINSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mr. Wilson?

Mr. WILSON. Yes; I was interested in your comments. I don't know whether you, Mr. Hudson, or the other gentleman said that you are going to require some kind of subsidization for churches.

How are the churches financed now other than the military churches that are on the military bases?

Mr. HUDSON. All of our churches are financed by the members of the churches. There is no subsidization given, no financial help.

Mr. WILSON. Why should that change, then?

Mr. HUDSON. The problem will come when the churches begin to operate under Panamanian laws. They will lose their purchasing privileges in the commissaries. Their pastors will not be able to buy in the commissaries. They will lose import privileges.

The main impact will be on electric rates, a triple raise in the rates of electricity. That is the worst thing that we see now. We have most of our churches air conditioned. The bill for an air conditioned church for a month might be from 100 to \$400. The trebling of those rates would be impossible to bear. That is why I am saying the impact won't be a legal thing. It will be by the fact

of not being able to afford to maintain the organization, not just churches. This includes all of our clubs.

Mr. WILSON. That was another thing I was going to ask about. In Mr. Hannah's statement, he said:

The Council recommends that a high standard of the quality of life facility program be established.

Then he goes on and says:

Such facilities are to include civic councils, churches, fraternal organizations clubs, swimming pools, bowling alleys, tennis courts, youth centers, skating rinks.

You have all those now, haven't you?

Mr. HUDSON. Yes, we do.

Mr. WILSON. You are not going to lose any of these things, are you?

Mr. HANNAH. Portions of them will be lost. Part of them will go to the mission, but some will be retained under a different type of leadership. We will have access to some of them.

As stated earlier, I don't believe all the clubs can stay in existence. Because of the tax rate, the electric rates and the cost of labor, many of them would have to close.

Mr. WILSON. Then you would agree with Mr. Sinclair that we should have a raise in the rates for the ships coming through the canal to finance these extra expenses rather than having to be burdened with heavier taxes for them?

Mr. HANNAH. I would agree that it would be the responsibility of the Commission to see that the people have these.

Mr. WILSON. Well, I certainly sympathize with the situation of those people who make the decision to stay here. I am very anxious to know what is going to happen in the year 2000. I don't know that I will still be around by that time, but I think we have gotten ourselves into one of the damndest messes ever.

I am terribly disappointed in the military representatives and in those other people who in my opinion sold out to get the support in the Senate for the approval of this treaty. It would not be approved today because you have a different Senate than there was last year.

But I am not one of these who thinks that we have to automatically pass implementing legislation just because we are told that we have no other choice.

I am prepared to test the constitutionality questions that they say will arise if we do not pass implementing legislation. When I say that I do not favor passing it, I don't mean that I want to hurt the people who are here and who are involved.

But I think we have to test this thing somewhere along the road just to find out what the real story is. As I mentioned to one of the reporters yesterday, I just think that the first bill that comes from the House of Representatives is going to have some awfully rough sailing, no matter what it has in it. There are a lot of House of Representatives Members who have committed themselves against the treaty and they are going to have to perform or else answer to their constituents.

Mr. HANNAH. I think that has been the best statement of the day.

The CHAIRMAN. Thank you, Mr. Wilson.



Mr. Taylor?

Mr. TAYLOR. Mr. Hudson, you spoke of the churches that Mr. Wilson referred to. Who owns title to these churches at the present time?

Mr. HUDSON. Many of the churches have been built by the individual membership of the church. My own church, for example, is in a government-leased building with very nominal rent. It used to be a naval chapel. We have recently, within the last 4 years, renovated that chapel to the extent of approximately \$25,000. So we have a particular problem also.

We have to try to figure out a way to retain that building as a church because the license to operate in that building ceases to exist October 1 unless some considerations are made.

Mr. TAYLOR. By and large this property that is now occupied by churches will revert to Panama; is that right?

Mr. HUDSON. Quite a bit of that property will become directly under the control of Panama. My own church in Coco Solo will still remain within the housing area but the licensing authority would still have to come from Panama.

Mr. TAYLOR. And the churches in many instances will have to negotiate with the Republic of Panama as to whether or not they can actually retain and operate their churches; is that correct?

Mr. HUDSON. That is exactly right. Right now negotiations are going on within the subcommittees. But just up until Thursday it is in a very vague situation as to what Panama is going to want.

Mr. TAYLOR. Was this addressed in the treaty itself or is this like all the other loose ends that the administration and Senate left for us to resolve?

Mr. HUDSON. This has to be resolved.

Mr. TAYLOR. I would say that that might change the quality of life somewhat for you.

Mr. HUDSON. Absolutely. The churches and the clubs are an extremely stabilizing influence in the community. Practically everybody at least belongs to one or two of those organizations, or maybe more.

Mrs. McCAULEY. I would like to interject that on the Atlantic side, the City of Colon offers very little social entertainment unless you enjoy being mugged. Therefore, we have to find our social entertainment in the Canal Zone itself from the Elks Club and yacht clubs.

As Mr. Hudson said, we just don't believe they will continue to operate. It will be all work and no play and we will have no place to go. This will definitely change the quality of life.

Mr. HUDSON. Unless Panama, as it says, wants the quality of life to continue and they want it to remain, what are they going to do? We have not heard yet, but the main problems are the electric rates, the purchasing privileges in the commissaries, the labor situation where we have to hire employees and many of the employees are Panamanian employees. We would have to come under the Panamanian labor laws.

Mr. TAYLOR. Well, as we have been briefed since we have been here and flew over the Canal Zone this morning, it was very individually pointed out, this goes and this stays, this goes and this stays. It seems to me that there are a lot of areas here where in



spite of the details of these treaties down to the very minute parts, that there are some very important parts that were not even addressed within the treaties.

It would appear to me that maybe we traded a horse for a rabbit and didn't even get the rabbit.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Taylor.

Mrs. Schroeder?

Mrs. SCHROEDER. Thank you, Mr. Chairman. I know the hour is late and we have lots to do. I want to thank you for your testimony. I just wanted to ask one question about the compounds that you mentioned on page 3 of your statement.

Are you recommending that we put the authority for you to create compounds in the implementing legislation?

Mr. HANNAH. We are recommending that some provision should be made. This is a suggested recommendation. As our communities diminish and as non-U.S. citizens move in and houses are torn down, physical security becomes a viable thing. Perhaps this may be the solution for our protection.

Mrs. SCHROEDER. And you would want us to also fund from the general treasury the security forces?

Mr. HANNAH. Perhaps, yes. If it is done, it will have to be done that way. We would much rather have it tied to Congress than the Commission.

Mrs. SCHROEDER. Thank you.

The CHAIRMAN. Thank you, Mrs. Schroeder.

Mr. Corcoran.

Mr. CORCORAN. Thank you, Mr. Chairman.

Mr. Hudson, I just have one question. I would like to draw you out a little bit on human rights and the fear that you apparently have in that respect.

We are being told that the situation here in Panama regarding human rights is improving and that the trend is good. The representation from the State Department in Washington, seems to suggest that while there might have been some problems relative to human rights in the past, that certainly is not the case any longer.

When you look at what is happening right now in Panama, based on an objective evaluation, the situation seems to be better from what it was. Why, then, when the trend seems to be one of improvement, are you concerned about the future?

Mr. HUDSON. We have lived here for 10 years. The government has been a very strict totalitarian type of government.

This report that I referred to by the Organization of American States was published in June of 1978. It did say there have been no systematic violations of human rights. The Constitution of Panama calls for the full range of human rights.

The report stated that in many instances these human rights have not been maintained, the right to vote, assemble and free press, et cetera, and the right of habeas corpus.

Since June of 1978, I have not been specifically aware of problems. But can you tell me whether in 5 months this government will be the same. That is the problem. It is a situation of uncertainty.

That is the only comment I can make on that.

Mr. CORCORAN. Are you implying, then, that perhaps the General is being cooperative these days but we don't know what the future will hold?

Mr. HUDSON. I have not seen him surface since the new president took over. So I don't know.

The CHAIRMAN. Thank you, Mr. Corcoran.

Mrs. Spellman?

Mrs. SPELLMAN. I had not intended to ask any questions, but I must say that I am somewhat puzzled by something that happened here a moment ago.

When my good friend and colleague, Mr. Wilson, said what he did about having the legislation fail altogether, I heard someone up here say something to the effect, "That is the best thing I have heard," and there was applause in the house.

Yet, you have come before us saying this is what we want in legislation. It would be very simple to just let the legislation fail and then we would not have to worry about putting all these things in.

I have the feeling we would be throwing you to the dogs or the wolves or what have you if we didn't pass legislation that would include as much as we can in it, as much as we might possibly be able to get passed.

So just in case the reporter has on the record that everybody applauded, I did want to give you an opportunity to speak to that.

Mr. HUDSON. Thank you. I want the implementing legislation to be passed as far as the employee benefits go as is. As a community, we are the ones that are going to be on the front line if it is not passed. That is simply stated, I think.

Mrs. SPELLMAN. I do want to call to your attention to that, of course, we get conflicting requests here. You, for instance, said you would not want to have to come under Panamanian labor laws. As I recall, Mr. Sinclair said we will take our chances with Panamanian labor laws.

Mr. HUDSON. I am speaking from the standpoint of the churches and nonprofit organizations that will have to meet the laws. This would not be a collective bargaining type of law. This would be all of the extent of what we have to do to hire our employees, to give them vacations, to give them their 13th month pay, et cetera.

From our standpoint, it boggles our mind. As it is now, it is very simple. We just get a license and we proceed from there.

Mrs. SPELLMAN. Let me tell you that while I fully understand what you are saying in this list that you have here, civic councils, churches, fraternal organizations, clubs, swimming pools, bowling alleys, tennis courts, youth centers, skating rinks, movie theaters, gun clubs, saddle clubs, boating facilities, hobby shops, libraries, sport facilities for both youth and adults, bazaars, flea markets, and any other not herein mentioned—I read those deliberately—I wonder if you realize what a list like that in any legislation we might come up with or any explanation for legislation we might come up with might do to some of the Members of the House. They would go right through the ceiling.

So we will have to be kind of careful about how something like that might be done.



Mr. HANNAH. I think it is understandable, though, that people cannot live and work without recreation of some kind. They must have recreation and it should be very wholesome and centered around family activities and family life, community and neighbors.

I think they would go along with this. I don't think anybody is opposed to that.

Mrs. SPELLMAN. Let me point out to you that in my district we have all of those things, but in a great many districts around the country Members of Congress would be on the spot trying to support this sort of thing because they don't have all of that in their districts.

Well, I shall not go any further because I think you know what I mean. We understand. You don't have a great deal else. You are limited in the area that you can live in.

Mr. HANNAH. That is right. These are going to be the factors that will retain the people. You are going to have to give them some incentive financially and you are going to have to give them recreational incentives. This is what is going to increase your stability among the workers. This is what we are looking for. You asked us what we want.

Mr. WILSON. Will the gentlelady yield?

Mrs. SPELLMAN. By all means.

Mr. WILSON. What you are really saying in here, as I read it again, is that the Commission should guarantee that you have access to this type of facilities. You are not asking that we put these things in legislation or in reports.

Mr. HANNAH. That they be made available to the U.S. citizens that remain behind. We must maintain some standard of recreation. I don't care who does it, but we want guarantees that we will have movie theaters, and churches, and the Elks Club, and a few things like that.

Mr. WILSON. It would be unusual, to say the least, if we were to spell out all of these things in a piece of legislation. I don't think that is really what you meant. I think you want some type of guarantee, either through intent of Congress, as expressed one way or another, that the Commission try to the best of their ability to guarantee this type of thing.

Mr. HANNAH. That is right, exactly.

Mrs. SPELLMAN. Thank you.

The CHAIRMAN. Thank you.

Again, our deep appreciation for your appearance here this morning. We are grateful for your input. Thank you very much.

Mr. HUDSON. Thank you very much.

The CHAIRMAN. Our next witness today is Mr. Seabert Haynes, president, Pedro Miguel Civic Council.

Mr. Haynes is accompanied by Mr. Clarence G. Gordon, president, Santa Cruz Civic Council; Mr. Samuel Blenman, president, Paraiso Civic Council; and Mr. Phillip A. Henry, president, Rainbow City Civic Council and Congress of Latin American Civic Councils.

Gentlemen, we are pleased to have you with us today.

I would like to reiterate that our concern and our area of jurisdiction relates to title III only of the implementing legislation. Thus, the subject matter relates to Federal employees.



We have other witnesses that we have yet to accommodate. We would like to be able to spend more time on things like the quality of life and that sort of thing. Unfortunately, time does not prevail. We do have an assigned mission and it deals specifically with that title.

If you will proceed, Mr. Henry.

**STATEMENTS OF SEABERT HAYNES, PRESIDENT, PEDRO MIGUEL CIVIC COUNCIL, ACCOMPANIED BY CLARENCE G. GORDON, PRESIDENT, SANTA CRUZ CIVIC COUNCIL; SAMUEL BLENMAN, PRESIDENT, PARAISO CIVIC COUNCIL; AND PHILLIP A. HENRY, PRESIDENT, RAINBOW CITY CIVIC COUNCIL AND CONGRESS OF LATIN AMERICAN CIVIC COUNCILS**

Mr. HENRY. Gentlemen, I am Phillip A. Henry and, as president of the Congress of Latin American Civic Councils, I will read a letter from the president and our position paper as representing all four civic councils.

DEAR MR. CHAIRMAN: The Congress of Latin American Civic Councils in representation of the non-U.S. citizen employees residing in the Canal Zone welcomes your Committee on Post Office and Civil Service to the Panama Canal Zone. We are encouraged that current in the future welfare and benefits provided to employees of the Panama Canal Company/Canal Zone Government brings you to us for a first-hand oversight of the situation prior to making definitive decisions.

Although we officially represent the non-U.S. residents of the Latin American communities in the Canal Zone, we are aware that our concerns are identical to those of all non-U.S. citizen employees of the Canal Enterprise, and that our anxieties for our future well-being are similar to those of all present employees.

These concerns and recommendations for corrections and adjustments in the Panama Canal Treaties and Implementing Legislation have been fully expressed and widely disseminated to members of the Executive and Legislative Organs of the United States Government. [Enclosures: No. 2. Position Paper, July, 1977. No. 3. Letter to the President, June 17, 1978].

It is disquieting and rather demoralizing that at this late date, adequate protection and assurances to non-U.S. citizen employees are enigmatic, ambiguous or nebulous and in some areas non-existent, employment rights outside the Republic of Panama; special immigrant status; compensation for increase in cost of living because of change in jurisdiction; collective bargaining for non-U.S. citizens, despite the expressed intent of the Panama Canal Treaties that future conditions for present employees of the Canal Enterprise will be 'no less favorable' than those previously enjoyed.

Our fears that the responsibility for our future well-being would be assigned by nationality is well founded as is evidence by the exclusion from certain beneficial provisions under the Panama Canal Treaties and Implementing Legislation. The economical and political priorities that have molded the Panama Canal Treaties and Implementing Legislation have taken precedence over the social realities. This omission expresses total disregard for the historical facts of our presence here on the Isthmus of Panama as well as our contributions, despite adverse conditions, over the past six decades to the successful operation of the Canal Enterprise.

These people, imprudently overlooked, are in their vast majority pro-American in sentiments with a good will which will prove an important factor in achieving the important political intents of the Panama Canal Treaties in this Hemisphere.

We must state that we appear at these final hearings on implementing legislation with mixed emotions:

1. Incredulity that injustices would continue to be perpetrated against a people who have such a commendable record of service and loyalty to the United States Government.

2. Indignation that the United States of America would inadvertently allow the sacrifice of a people in an effort to promote economical and political policies. It is our hope that these hearings on the implementation of the Panama Canal Treaties will erase these inequities, some of which we will now attempt to underscore in our Position Paper [Enclosure No. 1].

The CHAIRMAN. Do you wish to comment on the position paper dated February 1979?

Mr. HENRY. Yes, Mr. Chairman.

The position paper that you have has been modified especially in the recommendations in order for clarification. When we have transcripts of it I hope they will be reworded for the record.

In getting into our position paper, the treaty itself provides benefits for or protection for the non-U.S. citizens that will be provided in the implementing legislation.

We would like first to talk about employment as it appears in article X, paragraph 7 of the Panama Canal Treaty which says that non-U.S.-citizen employees will be considered for placement only in government facilities within the Republic of Panama. The adverse effect is corrected, supposedly, in the treaty by saying and stipulating that Panama will provide special job placement assistance to those displaced employees.

Now, it is our contention that these are not viable solutions inasmuch as the U.S. Government has very limited facilities outside of the canal enterprise within the Republic of Panama for employment. We further contend that it is totally unrealistic to assume that the Government of Panama with its own acute employment problems can in any effective way adequately resolve the unemployment of added thousands.

Then, Public Law 95-454 limits the participation or the protection of non-U.S. citizens who will be working in the canal areas as far as protection goes. We recommend that:

One: displaced non-U.S.-citizen employees who so desire be allowed to compete for jobs as Federal employees outside the Republic of Panama.

Two: that Public Law 95-454, which excludes non-U.S. citizens, be waived for employees of the future canal enterprise.

Our second topic is medical services. Article VIII, paragraph 2 of the Agreement in Implementation of Article II of the Panama Canal Treaty provides for health and medical benefits to non-U.S.-citizen employees for a 30-month period at the Coco Solo and Gorgas Hospitals. Subsequent to that period these employees shall be the responsibility of the social security system of the Republic of Panama.

We would like to make these following observations:

One: Panama's health and maternity benefits plan under the social security system is a health insurance plan which is an integral part of the Government's retirement program. Present non-U.S.-citizen employees participate in these programs separately as Federal employees—FEHBA and FEGLI. To our knowledge the mechanism to incorporate this distinct system has not been forthcoming, which creates the possibility of having to relinquish all of the Federal programs.

Two: the addition of approximately 40,000 more participants to the medical program of the Republic of Panama is certain to have traumatic and disruptive effects on the people and the system involved.

Three: the exclusion of these 40,000 persons from medical benefits in the DOD medical facilities will undermine the effectiveness of these facilities, especially Gorgas Hospital with its world re-



nowned reputation, along with the loss of a well-trained and efficient personnel.

Four: the exclusion of the civil service annuitants who presently participate in the special clinics, diabetic, geriatric, hypertension, et cetera, at Gorgas and Coco Solo Hospitals will certainly have an adverse effect on those individuals which could be fatal.

In light of the above, we are recommending that modifications be made to continue medical service to past and present employees of the canal enterprise throughout the life of the treaty.

This action will accrue to the benefit and efficient operation of the canal enterprise as has already been historically proven.

As concerns special immigrants, the administration bill and the Murphy bill will establish special immigrant status to CSA and residents of the former Panama Canal Zone. This in itself is commendable and necessary.

It should be noted, however, that the vast majority of non-U.S.-citizen employees who will be displaced are residents of the Republic of Panama since residency in the present Canal Zone has been restrictive since 1954.

The Congress of Latin American Civic Councils recommends that special immigrant status be extended to include those talented and experienced men and women in the Republic of Panama who will prove assets to the U.S. communities.

We wish to bring to your attention some clauses of the implementing legislation and the treaty which have caused some concern through misinterpretation of the intent of the Panama Canal Treaties.

One: H.R. 1716, title I, section 232b authorizes the Panama Canal Commission to provide funding for eligible non-U.S.-citizen dependents who are entitled to complete their education under the DODS system. No such authorization is granted to the Department of Defense. Specific instruction that will authorize DOD to fund these activities are necessary in order to achieve the intent of the treaties.

Two: article VII, section 2 of the documents associated with the Panama Canal Treaties states that employees of the Panama Canal Commission shall continue to receive medical benefits from U.S. facilities in the Republic of Panama. This article implies that DOD non-U.S.-citizen employees and their dependents, along with dependents of the Commission employees, will receive similar benefits, but does not say so in specific language.

It is recommended that specific language which includes DOD employees and dependents of all employees be added to implementing legislation.

Mr. Chairman and Members of the Congress, it is our hope that our concerns and recommendations will receive positive and favorable action from your honorable body.

Thank you very much for this opportunity to address you.

The CHAIRMAN. Thank you very much, Mr. Henry and gentlemen of the panel.

I feel that my fellow committee members are most sympathetic with the cause of the non-U.S.-citizen employees. We want again to assure that fairness will be the order of the day.



I can only assure you that as we move along with the finalization of this implementing legislation, the points you have made in your testimony will be given every consideration.

Mr. Derwinski?

Mr. DERWINSKI. I share the sentiments of the Chair, and we will study your statements in full and very carefully.

We appreciate your presentation.

Thank you very much.

The CHAIRMAN. Mr. Wilson?

Mr. WILSON. Thank you, Mr. Chairman.

I just have one question.

As we have proceeded with these hearings, I have become concerned about the complaints and fears of the representatives of citizen groups concerning the possible breakdown in law and order.

As Panamanians, what is your feeling about this? Do you feel that the changeover from the Panama Canal Company Police Department to the National Guard or the Panamanian Government Police is going to change the protection of your life and property?

Mr. HENRY. The problem is not basically the fact that we will have a different agency taking care of life and property. It is that there is a change from jurisdiction. The Canal Zone, as it is now, is a separate entity with a police force that can limit or can protect and exclude certain undesirables. After October 1, this entire area will be the Republic of Panama.

You cannot legally exclude anyone from the territory. So access will be free to all and everyone. On the Atlantic side, which was mentioned before, we do have a problem and we do have proximity to the city of Colon which is, along with the rest of the Republic, experiencing the worldwide disturbances and economic problems.

Mr. WILSON. You are on the Atlantic side?

Mr. HENRY. The other gentlemen are on the Pacific side and Mr. Gordon is in the middle.

Mr. WILSON. As a practical matter, do you see any hope for the city of Colon with the improvements that they have been talking about increasingly?

Mr. HENRY. If these plans are put into effect, there is a good chance that Colon could be revived. Colon, in the years gone by, was one of the cities that any tourist or anybody who came to the Republic of Panama had to visit or wanted to go to. Its neglect has been catastrophic to Colon. The national government is projecting plans, some of which you just mentioned, to revive it. They are very concerned that its image is deteriorating.

Mr. WILSON. What caused the change? You say at one time it was a much different type of city. What brought about the change?

Mr. HENRY. I can only surmise. I am not an economist. I am not an expert in this area, but a lot of the business enterprises that were in Colon are now part of the capital city. Job opportunities have decreased and Colon has not grown in relationship to the other terminal port cities. Our problem is basically employment. There are not that many employment opportunities in Colon. As a matter of fact, on the Atlantic side, I would suspect, besides the free zone, the Federal Government is the major employment agency.

Mr. WILSON. Maybe it is like the way I feel. I am from California. I figured if Columbus had landed there instead of where he did we would not have discovered New York yet.

The CHAIRMAN. If the gentleman would yield, if that were the case, where would California be today?

Mr. WILSON. Thank you very much.

I appreciate the contribution you gentlemen have made.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Taylor?

Mr. TAYLOR. Thank you, Mr. Chairman.

I have no questions except that I would like to express my appreciation to the panel for its statement.

I think it was very good and I am sure it will be adequately represented by the committee and your concerns will be addressed by this committee.

Thank you.

The CHAIRMAN. Thank you, Mr. Taylor.

Mrs. Schroeder?

Mrs. SCHROEDER. Thank you very much.

I too want to thank you for coming.

I have three brief questions that I think will help me with your testimony.

One: How many non-U.S.-citizen employees are there at the time that you are talking about?

Mr. GORDON. Are you referring to presently residing within the Canal Zone?

Mrs. SCHROEDER. Both, because you are testifying with regard to both because you said after 1954 it changed.

Mr. GORDON. Actually, we could not give you an accurate figure right now as to how many Panamanians are presently residing within the Canal Zone, the group which we are presently representing. It possibly could be somewhere in the figure of maybe 2,000 residents.

Mrs. SCHROEDER. How many nonresidents?

Mr. GORDON. Well, nonresidents might be over 9,000 because the figure that we have roughly is about 11,000 Panamanians presently employed with the Panama Canal Zone.

I would figure that it is over 9,000 Panamanians that are presently residing outside the Canal Zone.

Mrs. SCHROEDER. How many of these would you assume would want to emigrate?

Mr. GORDON. I would assume that most of those Panamanians that would like to emigrate would be the younger employees who would be affected by this treaty. Presently we have young Panamanians who have made this canal employment a career and some of them only have maybe 5 or 10 years service and they may be affected.

They have bought homes in Panama, making a future out of it. They might be the ones that would be RIFed. If this opportunity were given to them to migrate to the United States, then they probably would be able to make a living.

Mrs. SCHROEDER. So you are not quite sure how many? You have not done a poll or anything?



Mr. GORDON. No; we feel if we have this implementing legislation it will be open to all Panamanians employed regardless of where they live or work, and it would just give them an opportunity to migrate to the Untied States if they so chose to do this.

Mrs. SCHROEDER. My last question is, sometimes I am not quite sure I understand when we are talking about non-U.S. citizens and they are Panamanians, are these all native-born Panamanians?

Mr. GORDON. No; when you talk about non-U.S. citizens, you are referring to maybe some that are Colombians or maybe some Bolivians.

Mrs. SCHROEDER. What percentage of non-U.S. citizens are also of non-Panamanian origin?

Mr. HAYNES. A very low percentage.

Mrs. SCHROEDER. Thank you very much.

The CHAIRMAN. Thank you, Mrs. Schroeder.

Mr. Corcoran?

Mr. CORCORAN. Thank you very much, Mr. Gordon.

When my colleague, Mr. Wilson, asked his question about the employees who are not U.S. citizens and the disintegration that could take place after October 1, I got the impression that you wanted to respond.

I will give you an opportunity to do so.

Mr. GORDON. Could you state that again?

Mr. CORCORAN. When you look ahead to the future, you are now employees of the Canal Company and you are non-U.S. citizens. We have heard lots of testimony during the last 2 days that U.S. citizens who are employees are quite apprehensive about the future.

Is that apprehension shared by those who are non-U.S. citizens?

Mr. GORDON. Yes, sir; I would say so.

Mr. CORCORAN. Would you elaborate on what the components of that apprehension may be?

Mr. GORDON. Well, as I mentioned before, right now we have quite a number of young employees who have purchased homes in the Republic of Panama who may be on the RIF list. There is no way that they will be able to continue to pay for their homes or possibly educate their children. I think this is a deep concern to all employees that work for the Company.

At the present time, nobody knows exactly where they will be employed. We have not seen any plans where job placement has been settled presently by our Government to sort of reemploy us in other areas.

I would say that maybe it also depends on the type of salary that we will be receiving. At the present date nobody wants to, after climbing the ladder, nobody wants to go back down the ladder. I think that these are our deep concerns.

Mr. HAYNES. May I elaborate on that a little more?

We have in the Canal Zone Federal workers who will be faced with a problem like this: Many of these employees have already made high credits in the Company Government. To the extent that they are subjected with separation from the Government, their very last paycheck will be absorbed for what they owe.

Many of these same employees have extended themselves with loans from the bank and at the same time have bought themselves



homes, projecting for the future. When this condition comes into effect, many, a very high percentage, of these employees will be caught in the middle. Some of them will not be even able to receive the last check as their own check and then they will have to begin life on a different level. This is the problem that is ahead of them.

The CHAIRMAN. Thank you, Mr. Corcoran.

Mrs. Spellman?

Mrs. SPELLMAN. I must admit that I am somewhat puzzled by what you say. Do I misunderstand when I get the impression that there will be U.S. citizens leaving the work force and more and more Panamanians brought into the work force? Am I wrong in that assumption?

Mr. HENRY. Will you rephrase that so I can understand that.

Mrs. SPELLMAN. Yes.

The impression that I have had is that a lot of the U.S. citizen employees will be leaving or attrition will take care of that and that the trend will be to hire more and more Panamanians as part of the work force.

Mr. HENRY. Yes; the treaty stipulates that beginning October 1, there will be a percentage decrease for every year of the number of Americans employed within the Commission.

Mrs. SPELLMAN. Then why are we talking about loss of jobs among Panamanians?

Mr. HENRY. Because on the implementation of the treaty: (1) All commercial activities in the Canal Zone will cease. We are wiping out the supply division that provides commissary retail, the docks.

Mrs. SPELLMAN. You are talking about support personnel here then?

Mr. HENRY. Right. The only activities that will be the responsibility of the Panama Canal Commission will be those activities that have to do with the direct transit of ships through the canal.

Mrs. SPELLMAN. And you feel there won't be enough jobs available within the Company to take care of the support personnel who might be losing their jobs?

Mr. HENRY. There is no way because those activities are presently going on. They are filled right now with personnel. You are talking about thousands of employees in these other areas coming in to take jobs from other people in there that can't work. Sometimes they don't have the expertise in this area.

Mr. HAYNES. May I add to that?

Mrs. SPELLMAN. By all means.

Mr. HAYNES. In the supply division alone, wherein they have almost 2,000 employees, with displacement of employees into DOD, there are not 2,000 jobs that they would be going into.

In the system that will be set up, even though they may be transferred, those that may be transferred to DOD still will not be sure they have a job because when they get in there they will have the bump and the RIF again. Many of these same employees will be out of a job.

Mrs. SPELLMAN. That is interesting.

Mr. Gordon?

Mr. GORDON. When we talk about Panamanians replacing Americans in other jobs, I mean like them leaving, I think the percentage is very small because presently you have roughly, according to the

reports, 3,500 Americans that presently are employed with the Company/Government. The vast majority of us who are Panamanians are somewhere around 11,000 or 12,000.

So if these organizations are going to be phased out and some of the Americans will be taking retirement, I don't see any way that we will be able to fall into that position.

Mrs. SPELLMAN. I see. Thank you.

I did want to say to Mr. Henry that we flew over your mother's land this morning. It was just delightful.

Mr. BLENMAN. I would like to say something else on that.

Just recently the TV stated that there is 100,000 unemployed in Panama. If the RIF takes place in the Canal Zone October 1, my people would not be able to get a job over there because there are going to be 5,000 and Panama has 100,000 now. That is where the fear comes in.

So that is part of the fear and my people's concern about it. You have a RIF. You have a family and responsibility and there is no job for you to take care of that.

Mrs. SPELLMAN. Thank you very much.

The CHAIRMAN. Thank you, Mrs. Spellman.

Gentlemen, thank you very much for your excellent testimony. Be assured that the plight of the non-U.S.-citizen employee will indeed be given consideration in this committee. Our gratitude to each of you.

Thank you.

Mr. HENRY. Thank you very much.

[The enclosures Nos. 2 and 3 referred to by Mr. Henry are as follows:]

Latin American Civic Councils  
Panama Canal Zone  
June 17, 1978

The President  
The White House  
Washington, DC 20515

Dear Mr. President:

We extend to you a hearty welcome on the occasion of your visit to the Republic of Panama. We do hope and pray that your brief stay be pleasant as well as productive in terms of the foreign policy of the United States of America.

We are availing ourselves of this opportunity to discuss with you some of our continuing concerns in regard to the "Treaties Relating to the Panama Canal". There is no doubt that these treaties will seriously affect the lives of the non-United States nationals employed by the Panama Canal Company/Canal Zone Government as well as the United States citizens for years to come.

The assurances given in the treaty and its related documents address themselves in their major part to the United States citizen employees of the Canal enterprise. This in itself is commendable; however, as partners of over three score years in this unique operation, it is our firm belief that a great deal more assurances should be afforded to a people who have shared equally in the construction, operation and maintenance of the Panama Canal. We do feel that there is a moral contract on the part of the Government of the United States of America to assure our future well-being, despite our nationality. A perusal of our record will leave no doubt that our claim is fair and just.

We, the non-United States national employees, therefore, approach you with the conviction and deep anticipation that your good offices and renowned good will towards all peoples will assist in relieving our anxieties through just and adequate legislation vis á vis treaty implementation.

With these thoughts in mind we urge your positive consideration in making the following recommendations a part of the implementing legislation.

1. That an agency be established with the authority to resolve the financial hardships of displaced employees in specific and equitable terms.

We continue to be apprehensive about the future of the young employees who will be jobless as a consequence of treaty implementation. We believe that it is significant to note and seriously consider the fact that the young employees in question, quite naturally, made plans for their future based on the expectation of continued employment and concomitant reasonable remuneration.

The impact of treaty implementation on their lives could well be disastrous.

2. That all displaced employees be extended the option to work for the Federal Government outside of the Republic of Panama.



Guarantees for future employment of displaced non-United States nationals within the treaty are limited to the Republic of Panama (unlike their United States counterparts). The unemployment picture in the Republic of Panama can provide no assurance to those who will have to seek jobs. They should be afforded all available options irrespective of nationality.

3. That displaced employees with residency outside the Canal Zone be also granted the opportunity to become "Special Immigrants".

We applaud the projected implementing legislation on "Special Immigrants" and urge its adoption.

4. That the transfer of responsibility for our health and medical benefits to the Social Security System of the Republic of Panama be accomplished over a period of at least ten (10) years.

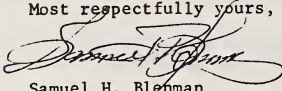
We are concerned about the haste with which responsibility for our health and medical benefits are to be transferred to the Social Security System of the Republic of Panama. We are convinced that it would be to the best interest of all parties concerned should the period of transfer be extended. This would not only alleviate shock and apprehension but would allow for timely studied decisions and adaptations in respect to this crucial change.

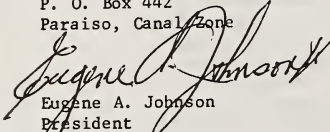
5. It is impossible for us to present a detailed discussion of our concerns within the context of this letter. In the past we have had the opportunity to testify before congressional committees and indications are that we will have similar opportunities in the very near future in regard to the implementing legislation on the new treaties. We wish to be assured that should hearings be held in continental United States that provisions will be made to assist us with the means of transporting ourselves to the Capital.


Mr. President, we are fully aware of the myriad problems you face daily, both in the world community and at home. However, we must implore that you give serious consideration to our apprehensions and our suggestions. We honestly feel that positive reaction to our requests will again underscore the sense of fair play and firm adherence to democratic principles under which the United States of America functions.


We have the honor to remain,

Most respectfully yours,

  
Samuel H. Blenman  
President  
Paraiso Civic Council  
P. O. Box 442  
Paraiso, Canal Zone

  
Eugene A. Johnson  
President  
Pedro Miguel Civic Council  
P. O. Box 762  
Balboa, Canal Zone

  
Phillip A. Henry  
President  
Rainbow City Civic Council  
P. O. Box 392  
Rainbow City, Canal Zone

  
Clarence G. Gordon  
President  
Santa Cruz Civic Council  
P. O. Box 436  
Santa Cruz, Canal Zone

JOINT POSITION PAPER  
LATIN AMERICAN CIVIC COUNCILS  
PANAMA CANAL ZONE

JULY 1977

The Latin American Civic Councils wish to take this opportunity to express to you the apprehensions and anxieties within the Latin American communities regarding the impending treaty between Panama and the United States of America. The information disseminated about the contents of the proposed treaty indicates that it will have a traumatic effect on the lives of all employees of the Panama Canal Company/Canal Zone Government unless specific and proper safeguards become an integral part of any agreement between the countries involved. Although we speak for a particular segment of the employees of the Panama Canal Company/Canal Zone Government, we are cognizant of the fact that identical concerns are shared by all employees for the future welfare of themselves and their families. In all cases, we foresee sociological and economical crises of immense magnitude.

Before we present our reaction to the treaty, as we are given cause to perceive it, we are impelled to provide you with a brief historical resume of the people we represent. The residents of the Latin American communities, in their majority, are Panamanians of West Indian origin; a distribution which is also reflected in the non-U.S. citizen employee work force of the Panama Canal Company/Canal Zone Government. Our presence in the Republic of Panama has been occasioned by the construction and operation of the Panama Railroad and the Panama Canal. Thousands migrated from the various Caribbean Islands, thus providing the work force necessary for the construction of the Railroad and Canal. As is natural with any group of people who share a similar ethnic background, their everyday life in Panama patterned the cultural and linguistic practices of their homeland. The history of the development of Panama shows that these immigrants contributed immeasurably to the cultural, social, educational, and economical development of the Republic of Panama.

Although many of these workers returned to their homes after the completion of the Panama Canal, a significant number remained on the

Isthmus of Panama, thereby providing the varied and specialized manpower necessary for the continuous efficient operation of the Panama Canal. Their loyalty and dedication to the United States through the Company/Government throughout two world wars and many other crisis situations is a matter of record.

The presence in the Republic of Panama of the West Indians and their offsprings, who are now Panamanians, have over the years created tensions, conflicts and misunderstandings, some of which are still extant. These past experiences give us cause to be very apprehensive about our future existence on the eve of a new treaty on the Panama Canal. It would be a most catastrophic experience for these people should the Government to whom they have given their all fail to provide the necessary safeguards that would assure them of continued gainful employment or a future devoid of unnecessary hardships and preoccupations. As a people who have loyally dedicated their lives and service to the United States Government through the Panama Canal Company/Canal Zone Government, ~~we can never over-emphasize~~ the fact that we envision disastrous changes in our life-style and a dire future should the United States Government not deem it fit to provide for us protection as Federal employees as opposed to nationals of a particular country.

The terms, as we understand them, under which the present treaty is being negotiated, will eliminate the jobs of a vast majority of the residents of the Latin American communities and, at the same time, dislocate a significant number of them. These affected families need to be assured that provisions will be made to provide them with proper economic protection.

In the normal process of establishing themselves as members of a community, employees have incurred varying degrees of financial obligations. Each individual was accepted as a party to these contractual commitments based on the natural assumption that there is a sense of permanency and stability in his status as an employee of the Company/Government. Default on these contracts will create additional mental and social anguish which will further aggravate the hardships of a



transition and adaptation to a new life-style. We envision that even early U.S. Civil Service Retirement will not adequately suffice in providing solutions to the problems, financial and otherwise, that the employees will face in the actual fulfillment of a new treaty. It is recommended that an agency be established with the responsibility and authority to resolve, to the satisfaction of the individual employee adversely affected by the implementation of a new treaty, the problems peculiar to his new status.

We continue to recommend revision of the U.S. Immigration Laws and the waiving of other restrictions in order to provide avenues through which those who may so choose can reestablish normalcy in their lives without undue difficulties.

The "Assurances for Present Employees of the Panama Canal Company/ Canal Zone Government Under a New Panama Canal Treaty", which do not address themselves to the foregoing concerns, project a rather disquieting future for the non-U.S. citizen employees through glaring omissions which have caused widespread consternation within our various communities.

The Latin American Civic Councils, distressed by the foreboding of the aforementioned omissions, make the following recommendations:

1. That medical care be assured for all present non-U.S. citizen employees and their families.

Medical care has been assured only to the U.S. citizen employee who may continue to work for the new Canal Administration. This assurance should also extend to their counterpart, the non-U.S. citizen. Further, the vast majority of residents of the Latin American communities have indicated their preference for retaining U.S. Civil Service Retirement. At present, through the continued payment of premiums to FEHBA, Civil Service Annuitants have medical protection and access to hospitals operated by the Canal Zone Government. The absence of such protection and access to U.S. medical facilities would have a far-reaching detrimental effect on the lives of these employees and their families. At the same time, arrangements must be made for continued medical protection for the unemployed who will have no assured income due to the implementation of a new treaty.

2. That assistance, financial and otherwise, be provided in order to relieve the hardship of those who will be forced to relocate because of loss of job and/or land turn-over.

The unemployed will be experiencing extreme difficulties in meeting their financial obligations and will also be in a most disadvantageous position in their attempts to provide adequate accommodations for themselves and their families.

3. That definite provisions be made for the continued gainful employment of non-U.S. citizen employees, locally and overseas.

We continue to reiterate that these employees should be given protection as Federal workers in order to provide them with a greater sense of security and to restore the now ebbing morale of the non-U.S. citizen employees of the Panama Canal Company/Canal Zone Government. Provisions should be made for the fullest utilization of displaced employees of the Company/Government in other Federal agencies.

4. That non-U.S. citizen employees be provided with assurances for the continued education of their children in any prevailing school system, and that students in the Canal Zone School System at the time of implementation of a new treaty be given the option to continue their education within a similar system.

5. That guidelines be established whereby the concept of "Upward Mobility" become an integral part of the policies of the new Canal Administration, thereby assuring present non-U.S. citizen employees that their abilities and potentials will not be arbitrarily disregarded.

In concluding, we wish to underscore our apprehensions concerning the implementation of a new treaty which could very easily consign the responsibility for our future well-being in a manner inimical to our best interest. This projection has had a demoralizing effect on a people who for decades have loyally dedicated their lives and energies to the operation of the Company/Government.

Any treaty concluded must address itself to these human factors by providing equitable protection and benefits to all whether they be U.S. or non-U.S. employees. To do otherwise would be tantamount to condemning a segment of humanity to incalculable miseries and hardships that are totally incompatible with any concept of human dignity and existence. We urge your fullest attention to our concerns.

The CHAIRMAN. Our next witness is Dr. Richard A. Cheville, president of the Pacific Civic Council. Dr. Cheville is accompanied by Mrs. Patricia Munchbach.

Doctor, we are pleased to have you with us today. If, for the purpose of the record, you will introduce your associates.

**STATEMENTS OF DR. RICHARD A. CHEVILLE, PRESIDENT, PACIFIC CIVIL COUNCIL, ACCOMPANIED BY PATRICIA MUNCHBACH, PRESIDENT, GAMBOA CIVIC COUNCIL, AND GEORGE BOUCHE AND JAMES WHEELER, PACIFIC CIVIL COUNCIL**

Dr. CHEVILLE. Chairman Hanley, on my right is Patricia Munchbach who is the president of the Gamboa Civic Council. On this side are Mr. James Wheeler and Mr. George Bouche who are members of the Pacific Civic Council.

Chairman Hanley and members of the committee, my name is Richard Cheville. Together we represent the Pacific Civil Council, the largest of the civic councils in the Canal Zone. These councils consist of democratically elected members of the community and the council represents a good cross-section of the community.

We appreciate this opportunity to address you on matters regarding the Panama Canal, as this is of tremendous personal concern to every member of our community.

Canal Zone residents in general dislike the treaties and the threat we feel it creates to efficient operation of the canal. However, now that we are about to have these treaties imposed upon us as an accomplished fact, we are anxious to see them enter into force with as little disruption of our waterway as possible.

We believe the Congress is also interested in the continued efficient operation of the Panama Canal. That efficient operation depends on the retention of a skilled and motivated work force to pilot the ships, operate the locks, and dredge the channels.

President Royo has publicly stated on several occasions that retention of the skilled U.S. citizen work force is essential not only for the continued operation of the waterway, but to train the Panamanian citizens who will increasingly participate in the operation of the canal through the life of the treaty.

The retention of an adequate number of U.S. citizen employees depends on many things: The good will of the Government of Panama; sympathetic and ethical handling of transferred employees by Department of Defense schools and Army Health Services Command; composition of the Commission; and the job market in the United States.

But more than any other factor, it depends on the benefits the enabling legislation provides to the employee in return for living and working in Panama under the new treaty arrangement.

Article X, paragraph 2(b) of the Panama Canal Treaty states: "The terms and conditions of employment to be established will in general be no less favorable to persons already employed \* \* \*"

In fact, because of the treaties, our employment conditions have already begun to deteriorate, and regardless of the legislation you enact, will deteriorate further during the coming years.

The Treaty mandates that Panamanian citizens be hired preferentially, so many U.S. citizens will enter the treaty period at the highest grade and position they can ever hope to attain.



Fraternal organizations, clubs, and churches, which are a part of the fabric of any community's life, will continue to function only by yearly permission of the Panamanian Government. Department of Defense transfer of function employees are losing leave benefits and education transportation for their college-age dependents. We will no longer live under the guarantees of the U.S. Constitution. We will pay increased insurance rates for automobiles and customs duty on orders shipped from the United States. All these effectively contribute to the degradation of the conditions of employment in this area.

The labor representatives have presented testimony regarding employee benefits to be addressed by the treaty implementing legislation. The Pacific Civil Council believes congressional enactment of employment benefits requested by these labor leaders is basic to retention of the work force needed to keep the canal in operation.

It is essential that the legislation be debated and passed quickly by the Congress because after the years of uncertainty associated with the treaty negotiations and ratification, delay alone will have a further adverse effect on retention of needed employees and operation of the waterway.

Perhaps you will hear other testimony stating there is no need to include the employee benefits in the enabling legislation because no matter how much they complain, the employees will remain and operate the canal.

A recent article in the Miami Herald noted that few Panama Canal employees have resigned since the treaty was ratified. That is true, but the reason is simple: Everyone is waiting to see what will be contained in the implementing legislation. The decision to remain and work, or return to the States, will be determined largely by the legislation you enact.

Title III, chapter 1, section 305 of the proposed implementing legislation enables Federal agencies in Panama to pay recruitment and retention differentials to certain essential employees. Many of the employees who would be covered in this section of the legislation as difficult to recruit and retain, and essential to the operation of the canal, are already at or near the Federal pay ceiling.

Therefore, this section of the legislation would be meaningless unless the additional remuneration prescribed was specifically excepted from the Federal ceiling in the legislation.

Section 407(b) of proposed implementing legislation would permit that at any time in the transition period:

\* \* \* one or both of the magistrates' Courts \* \* \* may be abolished by the President or his designee if in his judgment the workload is insufficient to warrant continuance \* \* \*

Section 407(c) would provide:

If both magistrates' courts are abolished \* \* \*

The District Court should exercise the jurisdiction of the magistrates' court \* \* \* and

The requirement of and procedures for preliminary examination \* \* \* shall not apply.

At first glance the interests of the U.S. citizen seem to be taken care of. But a second look shows unmistakably that with the disappearance of the magistrates' courts, two highly undesirable circum-

stances may be forced upon the citizens of the Canal Zone earlier than the treaty requires.

First: Any practical right of appeal is lost. Of course, it will be possible to appeal from district court to the fifth court in New Orleans, but at such expense in time, money, and effort as to render any right of appeal in a small matter essentially worthless.

Second: The right to preliminary examination and a possible finding of no probable cause before trial in the district court is lost. Preliminary examination as currently provided is a proceeding in the nature of grand jury indictment, is substantially important under the American system of justice, and should be continued.

Accordingly, we recommend strongly that 407(b) be changed from "one or both" to "one but not both" in its second line; to delete "either or" in its sixth line; and to delete 407(c) in its entirety.

The Canal Zone College is a 45-year-old institution and a symbol of pride for citizens in the Canal Zone providing them with educational facilities for their children and continued education for themselves.

Residents of the Canal Zone have been promised retention of quality education and the Honorable Ambler H. Moss, U.S. Ambassador to Panama, stated:

Anything the U.S. Government can do to maintain a high quality of education is essential for the morale of the American community and ought to be supported. We should not be penny-pinching in this respect.

Residents of the Canal Zone have become gravely concerned over attempts by Representatives from Florida to abolish the Canal Zone College and offer an extension of Florida State University as its replacement. There is no reason to believe that an extension of another institution could offer the same kinds of services and program quality at less than current operating costs.

In addition to providing the services to the Canal Zone community, the college is an outpost in the middle of Latin America promoting the American ideals of democracy, civil liberties, and human rights.

We, therefore, ask your committee to support in any implementing legislation a section which enables the Canal Zone Community College to continue to function after the transfer of the schools to the Department of Defense.

During his term as Governor of the Canal Zone, Harold R. Parfitt has acted as an effective and sympathetic advocate of the Canal Zone community in regard to the Panama Canal Treaty. His term as Governor will end on October 1, 1979—leaving no one to represent the Canal Zone community during the crucial transition period.

At the time the treaty goes into force, employees of the Panama Canal Company and the Canal Zone Government will be transferred to different Federal agencies. Many will be absorbed by the new Panama Canal Commission which is still in its gestation period. Others will transfer to the Department of Defense schools and the U.S. Army's Health Services Command. Many decisions vitally affecting employees will be determined during the transition period by administrative interpretation of the treaty and enabling legislation.



The Pacific Civic Council asks that a position of ombudsman be created by the enabling legislation. The ombudsman should be empowered to act as an advocate for the employee during the formative stage of the Panama Canal Commission and during the months immediately following transfer to other Federal agencies. The ombudsman's office should remain in operation from October 1, 1979, until the end of the 30-month transition period.

Don't let the fact that few employees have left the Canal Zone during the last year mislead you. A large percentage of the employees were born and raised in the Canal Zone or have lived in the Canal Zone for so long that this is their home. They would like to remain here if given reasonable incentives to compensate the changes in their lives.

However, these same employees are already looking into the availability of jobs in the United States. They are awaiting the implementing legislation, the end of the recent school year, and the opening of Federal positions within the United States after the lifting of the present Federal employment freeze.

The only possibility of retaining the necessary workforce to maintain efficient operation of the Panama Canal is rapid passage of implementing legislation containing sufficient incentives for the employees.

Thank you.

There is an additional statement from the Gamboa Civic Council and Mr. Bouche would like to address the question of churches and clubs briefly after that.

Mrs. Munchbach.

#### STATEMENT OF PATRICIA MUNCHBACH

Mrs. MUNCHBACH. My name is Patricia Munchbach and I live in the central part of the Canal Zone. I appear here as a representative of the Gamboa Civic Council, a representative body.

I wish to testify in regard to information relative to implementation of the new treaty relationship.

We ask that you not hold up the passage of the legislation. We realize that it is necessary and its absence will create an undue hardship on the people most closely involved with it—the citizens of the Canal Zone

Section 503 entitled "Effective Date," section (b) indicates nine sections of the act to become effective upon the date of enactment of this act. We believe that four of those sections (specifically 321, 322, 325, and 326) should be singled out and a clause added that they become effective on October 1, 1979, or with the date of the enactment of this act, whichever comes first. These have to do with the direct effect the act has on the employees and employee benefits.

I appear here as president of the Gamboa Civic Council, a representative body for U.S. citizen employees and their dependents, a constituency not unlike many of your own. I would like to let you know that the people are thinking about this legislation.

May I preface my statement with the comment that if it duplicates what has already been stated, then that is because those areas of our concern need to be emphasized and reemphasized.



Our people, as many others in the Canal Zone, are bitter and angry. They feel defeated, ignored, and deceived. Last year at this time they were incensed with the Panama Canal Treaty. They put forth a great effort in writing letters to Senators to let them know how they felt. They knew then that the treaty would directly affect their lives.

They were rewarded with form letter answers and visits from smiling Senators who, after enjoying vacations here in sunny Panama at U.S. taxpayer expense, went home, decided the fate of the Canal Zone people by selling them down the drain.

Now, people here understand that the congressional representatives believe we are satisfied with the current proposed legislation because you haven't received the deluge of letters that your fellow Senators received. Please don't be misled, Canal Zone people are not happy with the legislation, but they are not about to repeat their letters of last year.

There is the feeling of "What's the use: Whatever we do or say now isn't going to make any difference." There is the feeling that Congress has already made up its mind. In spite of Ambassador David Popper's recent denial of this, there is still the belief that there is someone, somewhere, who has the answers, who knows what's happening, why and how, but who isn't telling, because he or she is afraid of what the local reaction might be.

In fact, many people here continue to believe that this whole business of the treaty and the legislation is a conspiracy against the canal employees to get them to leave without anyone having to fire them. Sounds silly? Perhaps. But when you realize that these people have been told very little about what to expect, and when they finally are told it is too late to have anything to do or say about it, it's understandable.

Another feeling is of being an unwanted guest. The treaty states that Commission employees will have PX, commissary, and APO mail privileges for 5 years. Our people recently learned that the military is already begrudging them those privileges and seems to be making it as difficult as possible for those who may remain here after October 1.

Perhaps the military would feel or act a little differently if they knew that Canal Zone people are not enchanted with the PX idea after all. If the military can extend PX privileges to its Panamanian employees, then they could surely willingly extend those same privileges to U.S. citizens, employed by another Government agency.

More unwanted guests are teachers and health people who are to be transferred to Department of Defense. I might interject that these people, while not necessary for the direct operation of the canal, are necessary for supporting those people who are.

You will hear or have heard from their representatives, but may I emphasize that these people are not happy when they learn that DOD is only tolerating them and is not considering their requests regarding home leave, sabbaticals and retirement because it's never been done before.

We would like to point out that this whole Panama Canal Treaty and the subsequent legislation has never been done before; yet that didn't stop the proceedings. We want you to acknowledge that this

is a unique situation here. We want you to realize that you are asking U.S. citizen taxpayers to be flexible, to live with the unknown, to train their own replacements, to do things they have never done before.

We want you to act accordingly. It seems to many of our people that any employer asking these things of its employees and their dependents would and should do anything to keep its employees happy. The present canal employees are highly trained craftsmen and professional people dedicated to the efficient operation of the canal. Under existing international economic conditions it would seem wise to retain these employees and their families.

Chapter 2 of the legislation having to do with employees being transferred, states " \* \* \* terms and conditions of employment shall be generally no less favorable \* \* \*" than before the entry into force of the treaty. Our people feel strongly that conditions of employment should be more than favorable as an incentive to remain.

As an example, I would like to direct your attention to the many wooden tropical quarters in Gamboa and throughout much of the Canal Zone. Some of these have been so-called renovated, many stand as they were constructed in 1937. Are we to understand that conditions no less favorable means that these quarters are to remain as they are and we in them until the year 2000? If we stay?

These wooden dwellings with space between the external sheathing, paint falling off the walls, porcelain sinks, cement shower stalls or chipped iron bathtubs are so termite ridden now that there is much doubt that they will last until the year 2000. Being allowed to rent one of these quarters is not much of a benefit.

Gamboa is a lovely community, secluded and serene. It is the center of dredging division and directly on the bank of the Canal. Residents choose to live here because they like the atmosphere of a small town.

Gamboa will disappear unless something is done about the housing. There are no concrete houses in Gamboa, although it has been designated an area of civil coordination, housing. Our residents do not feel wrong in requesting that somewhere in the legislation there be a clause that the Commission will provide suitable housing in Gamboa and elsewhere where needed—even if it needs to be built now—for those Americans who are to remain here for the next 21 years.

Nowhere could we find in the legislation any mention of benefits for our clergy and their families. Are we to understand that as of October 1 they are to be cast aside, deprived of the same privileges they enjoyed with their parishioners in the past? In trying times this small group of people do much to alleviate crisis. As a courtesy, we feel they should be extended the same benefits as their U.S. citizen employee counterparts under the legislation.

There are people in Gamboa who are concerned with the status of their lives in 5, 10, or even 15 years from now. Many employees are in the middle of their working careers, too young to retire, who don't want to leave, believe it or not, but with the proposed legislation are losing all the original conditions of their employment.

Specifically, these are the security of U.S. laws and courts, U.S. police protection, comparative mail service as in the United States,



goods and services available as in the United States even if they are somewhat delayed, stale, shopworn, or damaged in shipment.

You are asking them to substitute life in a foreign country, under a foreign government with foreign laws and a history of violation of human rights.

Again, I emphasize the implementing legislation falls short of offering proper incentive to do this. If you expect to retain U.S. taxpaying citizen employees and their families for any length of time, then you should think about offering them more than PX, commissary, and APO privileges for 5 years, early retirement, trash collection, and lawn cutting.

Although my comments are centered on Gamboa, almost everything I have said applies to many of our Canal Zone residents. Many people in Gamboa are taking a wait and see attitude. Many are remaining on the rolls of Pan Canal to be there as of the entry into force of the treaty that is, October 1, 1979—with the slim hopes that maybe something good will come out of this mess. Until now those hopes have been dim, clouded by the fact that until recently they have been told very little. Now, with what they have been told, they are left with the attitude, why bother.

You could change this attitude by being responsible representatives, listening to the labor leaders' requests and suggestions, acting on behalf of the U.S. taxpaying citizens here by giving them a fair incentive to complete the job set forth by the Senate last year, ultimately to turn over to Panama in the year 2000 a working Panama Canal. We feel this can be done, but with the prevailing attitude of the employees and their families, it will not.

I thank you very much for inviting me to testify before this committee. I appreciate the effort you have made in coming to the Canal Zone to find out the facts. I hope these comments will aid in your decision on this legislation.

Someone mentioned that it would be difficult to incorporate in the legislation spelling out the list of requests Mr. Hudson mentioned regarding fraternal organizations, churches, nonprofit organizations, because maybe your constituents do not have the same benefits.

We are sure your constituents would understand and sympathize with our requests to make these possible.

The CHAIRMAN. Thank you, Mrs. Munchbach.

#### STATEMENT OF GEORGE BOUCHE

Mr. BOUCHE. Mr. Chairman, my name is George Bouche. I work in the dredging division. I would like to support certain statements that have been made previously by other individuals. I would like to remind the committee itself of certain things.

This, ladies and gentlemen of the committee, is not just a base closing. You cannot measure us with that kind of a yardstick. The tape measure won't fit. We don't fit that high.

What you are doing, you are disestablishing a territory of the United States in which the Federal Government is the entire landlord. They own the land, the air, and the sky. As such, they have the responsibility for the entire gamut.



Your responsibility doesn't end at employment. It enters into the community. You have over the years established this as your bailiwick and this had been your responsibility. Don't forget that.

You can't find a regulation here that will fit everything. Of course not. But you have still got the responsibility, gentlemen.

If you have read David McCullough's book, you will remember why the Canal Commissoin almost went down the drain in the beginning, because they hired the individuals and brought them here and they had jobs and no community life. They had to stop the building of the canal until they could build towns, roads, streets, establish community life, start YMCA's and this sort of thing.

Someone has to accept this responsibility. You cannot allow the nonprofit organizations to go down the drain.

Now in the past, the Federal Government had this responsibility, but as the years ensued and the canal went about its activities, the employees took over these concerns and the Government stepped back. Think of it, the churches are affected. The fraternal organizations are affected, the Elks, the Legion, YMCA, the VFW, the churches, the ladies clubs. Let me give you an example.

Mrs. Munchbach lives in Gamboa and I work in Gamboa. The Canal Zone Government shut down the only source of a place to buy a lunch, breakfast, lunch, or dinner. They shut it down. They saw no need for it. This means that you either eat at the employees sponsored and directed health club or you eat at the ladies club and bless them all.

Now you have two places to eat in this town which is roughly 17 miles from here if you work out there and there are several hundreds employees who work there. I am saying this: The treaty brings about an onus to the nonprofit organizations that is going to make it difficult for the club or the ladies club to exist and service the people in a capacity which the Government had advocated. If they close these two organizations down, what are we going to do? We are going to become the biggest group of brown baggers you ever saw.

Another thing, as an example in this town where Mrs. Munchbach lives and I work, there is one gas station. After the treaty goes into effect only company vehicles will be serviced. This means that if you want to buy gas, and we have not been told anything different, you are going to have to make a 17 mile one-way trip to the nearest gas station. This will encourage the individuals to carry gas in their cars and store it in their houses which is a fire hazard and a hazard to their homes and lives.

What is going to hold this organization together is not as the unions are telling you, if it pays the people enough, they will stay. The hell they will. It is the entire community life that will keep people here and you have to do something about sticking us together.

Without community life you are going to have the same problem you did when you started building the canal. The people are going to leave. You have to preserve and protect that. We have no assurance to the contrary. We have no assurance that that will be done.

Thank you.

The CHAIRMAN. Thank you, Mr. Bouche. We thank you very much for your statements.

I would commence my brief response with this, that I don't think any of us are jumping up and down with joy with respect to the essentiality of the treaty.

However, our Nation happened to be dealing with an extremely difficult international political problem and I would hope that it would not be oversimplified.

I regret to hear, in your statement, that the Senate sold the people down the drain. That is not the case. You say that the Senators came here and enjoyed a vacation and enjoyed the Sun and then went back and sold the people down the drain.

I beg to differ with you, and I don't think that is quite fair. The Senate, like the House, is charged with the responsibility of upholding the Constitution of the United States and doing what is best in the American national interest. These decisions are not always easy. This was an extremely difficult one.

So I would hope very much that that body would not be charged with "having sold the people down the drain." That is entirely unfair.

Now another statement, if I may respond, and then certainly you will have the opportunity to respond to whatever I have to say, your other allegation that the intent was to invoke the treaty for the purpose of disposing of the employees. This is ridiculous.

I yield to the lady.

Mrs. MUNCHBACH. Yes, we respect what the Senators did and the job that they had to do. What I am reporting to you are the feelings of the people of the Canal Zone, right or wrong. We feel we have been sold down the drain. The Senate had their job to do and we understand that. But regardless, we still feel we were sold down the drain.

The CHAIRMAN. All right, the lady has stated that. I yield, and time is of essence here this afternoon.

Dr. Cheville, on the first page of your testimony you suggested that deterioration has begun. Could you expand on that?

Dr. CHEVILLE. Yes, sir. I would be glad to.

There is simply no way that conditions of employment, if you look at them in their entirety, the wage packages, the community in which we live, many of the things that we have enjoyed in the Canal Zone, can continue. In fact, in spite of what the enabling legislation continues, the list of things which I gave in the testimony are already being changed and will be changed and are required to change in the treaty. There is probably no way that can be altered.

These things so far as we know, as the legislation contains them as proposed and with packages for absorbing employees into the Department of Defense schools and Army Health Services Command, will be so.

The leave circumstances will change and there is an exception to allow, where benefits of employment do not fit the new agency where it will be going, that it will go under those of the new agency.

If that is the case, we lose. Our leave time will be less. At the present time, for example, up to the age of 23, children are paid to



go and to return once a year from college in the United States. That will be lost. Our insurance rates for automobiles immediately when the Canal Zone disappears are estimated to double because of the increased risk of driving.

The CHAIRMAN. I think you have already alluded to that in your testimony. I guess you have responded to my question, Doctor. I find myself in complete agreement with a reference on page 3 with respect to Governor Parfitt, that he has acted as an effective and sympathetic advocate of the Canal Zone community with regard to the Panama Canal Treaty.

I believe we have been blessed in having him in charge of the store. I think there is a great deal of credibility associated with the suggestion you make for the ombudsman, someone who will pick up the reins subsequent to October 1. That thought will be given a great deal of consideration.

Dr. CHEVILLE. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Derwinski?

Mr. DERWINSKI. Thank you, Mr. Chairman.

I think these last three statements, the two which we have plus verbal statements, accurately reflect the views of the people you spoke for. I have no doubt about that. I think we have come away with an extra feeling and appreciation of the intensity of your views which we did not get before at a distance, so your contribution has been quite helpful.

As Chairman Hanley indicated, to the degree that it is practical and possible, we hope to be as understanding and sympathetic and as much help in the adjustment as much as we can within our committee jurisdiction.

Thank you.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mr. Wilson?

Mr. WILSON. Dr. Cheville, I want to compliment you on your statement, the fact that you were moderate and temperate, even though you probably have as strong a feeling as anyone else.

I was terribly disappointed with the statement of Mrs. Munchbach, though. How many American citizens who work in the canal exercise their right to vote? Do you have residences or homes in the United States? Do you participate in the voting procedure. Do you, Mrs. Munchbach?

Mrs. MUNCHBACH. Yes; I do. I cannot tell you how many of my citizen representatives vote. Do you mean in absentee?

Mr. WILSON. Yes.

Mrs. MUNCHBACH. I personally do. I don't know how many of my people do.

Mr. WILSON. I hope that you do because, first, I hope you are not under the impression that these so-called letter writing campaigns are of any extreme importance. I am very happy you did not think it was necessary to start a letter writing campaign to the Members of the House of Representatives.

Now the appropriate person to write letters to is your own Senator or your own Congressman and not the whole House of Representatives and not the whole Senate. I just mention that as a word of advice.



I wonder about the accuracy of the statement you made here on page 2 that if the military can extend PX privileges to its Panamanian employees, then they could surely willingly extend these same privileges to U.S. citizens employed by another Government agency.

Are you talking about the 5-year period when the APO and commissary and PX privileges are cut off?

Mrs. MUNCHBACH. Yes; we realize that the treaty says that the military must provide us with these services for 5 years. What I am telling you—I have nothing to base this on in writing—

Mr. WILSON. Then you should not make a statement like that because the military is not—unless I have been misled by them or by the Governor—going to be providing PX services to Panamanians after that period either.

Mrs. MUNCHBACH. I understand right now that if a Panamanian is a cashier in the sales store—

Mr. WILSON. We are talking about the 5-year period when you lose your privileges. That is the period of time we are talking about. They are not going to get anything that you are not getting.

Mrs. MUNCHBACH. They receive something that we don't receive even now. This is what we are upset about.

Mr. WILSON. You have commissary and PX privileges, don't you, through the Panama Canal Company?

Mrs. MUNCHBACH. The Panama Canal Company has its own supply division.

Mr. WILSON. How many different agencies do you want to get PX and commissary privileges?

Mrs. MUNCHBACH. Right now the military enjoys both and we have been asking for a long time to have both. There are two systems here. There is the Army military PX, commissary, base exchange, call it what you will. There is also the Panama Canal Supply Division which runs its own commissary.

We as Panama Canal employees have only access to the Panama Canal Supply Division stores, unless we happen to be retired military and then we have access to both, but not by virtue of our Panama Canal status.

I am a Panama Canal employee. All I can shop at is our company store which is going to the military. I cannot shop at the military commissary.

On the other hand, military people can shop at both. They take advantage of our sales. They buy things when their commissary is out of them. They come to our commissary.

Mr. WILSON. They don't give Panamanians any more privilege than they give you, do they?

Mrs. SPELLMAN. If the gentleman would yield, perhaps I might add this: Nonappropriated funds people are permitted to shop in the facilities that they work in.

Mr. WILSON. But they are DOD people.

Mrs. SPELLMAN. They are DOD people, right.

Mr. WILSON. I think you are mistaken on this and you are making allegations that just are not accurate.

Now on page 3 of your statement, you bring up the case of special benefits and you say you cannot find anything in the legislation mentioning benefits for the clergy and their families.

Madam, let me tell you that you will never find anything giving special benefits to the clergy and their families because that is a violation of the Constitution. This Congressman will not vote at any time to provide special privileges for any church or any clergy.

I have expressed my sympathy and my strong feelings for the position that you find yourselves in, but the best way to approach this, I think, is to use the approach that Dr. Cheville did.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Taylor?

Mr. TAYLOR. Thank you, Mr. Chairman.

I want to express my appreciation to the panel. I certainly share some of what everyone said and probably with some disagreement.

I especially would like to commend Mr. Bouche because I believe, too, that while this committee is concerned and the main reason we are here is because we are concerned with the employees of the Canal Zone and those who have served our country well, we certainly recognize that the testimony that has been given to the unions and others with economic problems is one that we must and should consider.

I think that you are right, the community life in this area is important. I believe it is an area that should concern this committee and should concern the Congress. I want to commend you and to commend the other panel of witnesses from the civil councils who have expressed your concern because of this.

If you are going to continue to live here and try to keep the canal in operation, I think we must recognize that there are many things other than economics, important as they might be, to the lives of the people who we expect to live here and carry on the function that is important to not only our Nation but to the free trade of the world and it is necessary, that it is dependent on the successful operation of this very important facility.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Taylor.

Mrs. Schroeder?

Mrs. SCHROEDER. I know the hour is late. Let me be very brief.

I want to compliment the chairman, Mr. Hanley, on his statement and say I truly agree. I came down thinking we are not here to debate whether or not the treaty should or should not have been signed. We are dealing with America as it is in 1979, and that is that the treaty was signed. The question is what do we do at this point to try and make life as pleasant as possible and the transition as easy as possible and give the Governor and other people who are in charge of that the tools they need.

I don't think there is anyone on this committee who is going to gain any points in any of their congressional districts for supporting this legislation. In fact, if anything, we are going to be thrown barbs and rocks and everything else for people saying it is one more giveaway.

Proposition 13 fever is alive and well in the United States. So to have people come and yell at us about (a) the treaty, and then (b) that the legislation is not enough and they want even more really makes us wonder if we should not just walk away from the whole thing and throw up our hands and let chaos reign.



I don't think that is the responsible thing to do. I hope people here realize we should work together with situations as they are today rather than wishing they could turn the clock back and do something else.

That is my only comment.

The CHAIRMAN. Thank you, Mrs. Schroeder.

Mr. Corcoran?

Mr. CORCORAN. Thank you, Mr. Chairman.

I would like to touch on the very useful suggestion you made, Dr. Cheville, regarding an ombudsman.

You know that the Embassy traditionally would have that responsibility for U.S. citizens in a foreign country. What I am asking is: Has there been any communication at this point with the Embassy, and might the solution be to enlarge the Embassy under the peculiar circumstances that we will be engaged in following October 1 of this year?

Is that something you are thinking about or would you care to expand more on what you have in mind?

Dr. CHEVILLE. I feel somewhat hesitant to answer because, again, I am afraid my answer is rooted to some extent on the feelings of the people in the Canal Zone as related to the position of an ombudsman function. That is, during the long period of negotiation, the time before ratification, there has been some feeling in the Canal Zone against the State Department, and while Ambassador Moss, I think, has strived greatly to diminish these feelings and has made a great effort to contact the people in the Canal Zone and to be their advocate in some circumstances, I think there may be some doubt that people in the Canal Zone would be trusting of an ombudsman that was from the State Department.

I don't make that as a feeling of mistrust of Ambassador Moss or even to say that it would not function. I would say that because of the psychological climate somebody from the Department of State would have more difficulties fulfilling this position well than somebody chosen from another agency.

Mr. CORCORAN. However, a person could be chosen from outside the State Department and lodged at the Embassy here. Perhaps it would be best to set up another office, something entirely new, and select who is, in fact, sympathetic.

That is my own personal suggestion.

Dr. CHEVILLE. I think we could function very well. We did not make a specific, specific proposal. I think that it is introduced with the idea that many, many things are not going to be recognized as problems until after transfers and the new agency begins to function.

Sometimes there will be choices, A, B, and C, and all of them are legal. There may not even be tremendous cost differences between A, B, and C, but C impinges less negatively or more favorably on the employees than A and B. In such a case, an ombudsman could advocate effectively for us.

Mr. CORCORAN. Thank you.

The CHAIRMAN. Thank you, Mr. Corcoran.

Mrs. Spellman?

Mrs. SPELLMAN. I would like to join the others, Dr. Cheville, in complimenting you on your statement. It is so meaty that I feel it



is one that I would like to go through two or three times in order to get everything out of it.

I did want to ask one question: You say the treaty mandates that Panamanian citizens be hired preferentially. So, many U.S. citizens will enter the treaty period at the highest grade and position they can ever hope to attain. Once they are in the system, can they not continue to move on ahead?

Mr. CHEVILLE. I will have to answer in supposition, please understand that. I am talking out of my understanding of the treaty and I think the regulations for that have yet to be established.

But from what we have read of the treaty and the position of the Panamanian Government, when a job opens in management, if a Panamanian is eligible to fill it and qualified either from within the organization or by lateral transfer from a Government agency in the Republic of Panama or from industry in the Republic of Panama, he should be placed in the position preferentially. That was done, I am sure, to be secure that when the year 2000 comes enough Panamanian employees will be aboard to continue the operation of the canal efficiently into the future.

This, however, does, I believe, limit opportunities of advancement, at least by inference, to U.S. citizens who stay here. In other words, there is a certain amount of mutual exclusivity to preferentially selecting Panamanians and curtailing opportunity for U.S. citizens.

Mrs. SPELLMAN. I just wanted to point out that we have the same kind of a situation that you are referring to in the Bureau of Indian Affairs and I must say that it does create some real problems of morale. We have attempted to address that new legislation.

So that would indeed be a concern.

Dr. CHEVILLE. Chairman Hanley had asked earlier specifics about how the treaty already will affect conditions of employment. I think this is one at least by implication.

Mrs. SPELLMAN. I could imagine that that would be the case. For Mrs. Munchbach and Mr. Bouche, I fully understand that you are reporting on how people feel, but if we were to take this testimony to the House, I think broad pressures would really rise.

Let me first go into the enjoying vacations and point out for the record that if there were anything that I wish I could have done this weekend, it would have been stay home. I would even given you your sunshine. It was a very bad time to come, but it was important enough to me and to other members of the committee who I am sure were also inconvenienced because we had not had time to put this on our schedules a long time back.

It was important enough for us to come because we cared. We cared about the problems that you have and cared enough about them to try to do something about them. Yet I have the feeling that you are saying that folks out here figure we don't give a hoot. We really do.

I might point out, too, that some of my constituents, or maybe I should say some of my former constituents, would have a little difficulty in understanding some of the things we are saying here.

I say they are my former constituents because the whole agency was picked up and moved out and moved to another section of the country, one that did not have the kinds of educational facilities

that these people were used to, didn't have the kinds of accommodations they were used to, didn't have the clubs that they would have liked to have been in. They had to leave their churches, et cetera.

But nobody asked them. Nobody asked them whether they wanted to go. I fought it and I lost it. They had two choices. They could either go into what they considered to be a cultural wilderness, although my colleagues in the House who represent those areas would have disagreed about the cultural wilderness, they could either go there or give up their jobs.

Some went and some left their jobs. When they left, it really tore things apart. Their children had to come out of schools midyear. Their homes had to be sold in my district and they had to hunt for other housing where they went.

You know this happens in my district because I live in the Metropolitan Washington area. And the Congress is very busy attempting to move people out of the Metropolitan Washington area.

So it happens more times than I would like to say. And no provisions were made for them, almost no provisions. Some of us had to battle with the Department of Defense to at least give these people preferential employment possibilities. When they are oceanographers, there are not a heck of a lot of places for them to go.

So I mention this to you because I don't want you to think that you are alone. It is terrible when it is happening to you and it doesn't matter that it happens to thousands of people also, other thousands. You are feeling it regardless of how much company that you have. But it happens right there within the States so often that it would be very difficult for the Members of the House to feel that you were being put upon to the extent that you feel you are being put upon.

Incidentally, when you talk about brown bagging, I do want you to answer this: When you are talking about brown bagging it, you are talking to one of the biggest bunches of brown baggers you ever saw. Because if we want to eat decently, we bring our own.

I want you to know we sympathize with you and we are concerned about you and we want to help you. But also we want you to know that the bitterness you feel is not necessarily justified because you are really not alone.

I also want to point out with regard to the ombudsman, the idea is an excellent one, but we do have a Commission which is American, three out of five of the members will be Americans, and so there will be that American protection.

An ombudsman working with you to represent your interests to that Commission would certainly give you very good protection.

Mr. BOUCHE. I can appreciate the problems that the people had that moved out of your district.

Mrs. SPELLMAN. Just losing me as their Representative was bad enough.

Mr. BOUCHE. We feel the same way, but they kept their rights as U.S. citizens. We are being deprived of ours. We have to live under a foreign government. There is a difference.

Mrs. SPELLMAN. Only if you want to.

Mr. BOUCHE. That is right.



Mr. WILSON. If the lady will yield, I have great sympathy for the people who are living in Germany, because of the high cost of living. They have bad housing. They are living on a very expensive economy. To try to establish yourselves as the only U.S. citizens, who are being inconvenienced because of your job is not fair. Other people are living under foreign governments as well as you are. I just can't be sympathetic with you when you try to tell us you are the only people suffering.

Mrs. SPELLMAN. I did want Mr. Bouche to have his time in the Sun.

The CHAIRMAN. Thank you very much, Mrs. Spellman.

Mrs. SPELLMAN. Mr. Chairman, I did promise Mr. Bouche that he would have time to answer.

Mr. BOUCHE. Mr. Wilson and I have a problem in understanding. I appreciate the sentiments and I understand exactly what he is saying.

To make my point, it would require my sitting down and talking carefully with Mr. Wilson. I hope he appreciates that.

The CHAIRMAN. Thank you, Mrs. Spellman.

Once again, our appreciation for your time and effort here today. Thank you.

Our next witness is Mr. Douglas Innes as Chief of the Administrative and Management Office of the Department of Defense.

#### STATEMENT OF DOUGLAS INNES, CHIEF, ADMINISTRATIVE AND MANAGEMENT OFFICE, DEPARTMENT OF DEFENSE

Mr. INNES. Mr. Chairman and members of the committee, this is going to be the short testimony of the day.

I am a DOD employee and have been for 17 years. Friends have asked me to come and speak. I really have but one thing to say and I think I am saying it to a group I can trust.

The CHAIRMAN. Be assured.

Mr. INNES. We hope that DOD employees are not forgotten. We hope sincerely that they are remembered, that the DOD employees, for example, are given early retirement opportunities, should they be displaced, similar to those early retirement opportunities accorded the Panama Canal people.

The same thing is true in the area of priority placement. We would hope that displaced DOD employees would be given the same kind of consideration and priority placement in Conus as Panama Canal employees might be given.

Those are the two points that I wanted to make. I am speaking for myself as an employee and because friends asked me to come here.

The CHAIRMAN. Well, thank you very much, Mr. Innes. Your associates have a true friend in you. We get your message and we will try hard to respond to your request.

Mrs. SCHROEDER. Mr. Chairman, do you think the gentleman looks like Teddy Roosevelt?

The CHAIRMAN. There is a very distinct similarity.

Mr. TAYLOR. We can use him.

Mr. DERWINSKI. If within the next few weeks you want to put your thoughts down on paper, we do have the time, and if you



forward your detailed comments to us, it would be helpful. I think your point is well taken.

Mr. INNES. Fine, sir, I will take advantage of that opportunity. Thank you.

The CHAIRMAN. Mr. Wilson?

Mr. WILSON. No questions.

The CHAIRMAN. Mr. Taylor?

Mr. TAYLOR. No questions.

The CHAIRMAN. Mrs. Schroeder?

Mrs. SCHROEDER. Thank you. I have no questions.

The CHAIRMAN. Mr. Corcoran?

Mr. CORCORAN. No questions.

The CHAIRMAN. Mrs. Spellman?

Mrs. SPELLMAN. Thank you. I have no questions. I am happy you came to call that to my attention.

The CHAIRMAN. Thank you, Mr. Innes. As Mr. Derwinski has suggested, feel free to communicate by letter if there is anything further you want to elaborate on your testimony.

Thank you.

Mr. INNES. I shall, Mr. Chairman. Thank you so much.

The CHAIRMAN. Thank you.

Mr. Innes' testimony concludes our hearings.

[Whereupon, at 1:59 p.m. the subcommittee adjourned.]

[The letter which follows was received for the record:]

CANAL ZONE BAR ASSOCIATION,  
February 15, 1979.

HON. JAMES HANLEY,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives, Washington, D.C.*

DEAR MR. HANLEY: It has come to the attention of the Canal Zone Bar Association that your committee has scheduled hearings on the Isthmus of Panama on February 16 and 17, 1979 to consider certain aspects of the Panama Canal Treaties implementing legislation. The purpose of this letter is to offer your committee access to our membership in gathering information concerning the availability of legal counsel to U.S. citizen employees of the federal agencies during the life of the Treaty.

At present an anglo-American legal system is in force in the Canal Zone and is administered by a U.S. District Court. Attorneys trained in the common law are available on the Isthmus to advise resident U.S. citizens on matters pending here and in the United States. On entry into force of the Panama Canal Treaties the U.S. District Court will commence a phasing out process which will be completed in 30 months, by which time most of the U.S. citizen attorneys in private practice on the Isthmus will have returned to the United States, leaving U.S. citizen employees of federal agencies without sufficient local counsel for matters pending in the United States, and without American counsel for matters being heard in the courts of the Republic of Panama. Our association considers this to be a hardship upon both the resident U.S. community and those members of the local bar whose practices will be destroyed.

After implementation of the treaty there will remain a few dual national and Panamanian attorneys trained in the common law and admitted to practice in the Republic, who will be available to serve the American community, but their number is not deemed adequate for proper representation. Should your committee wish to inquire into this problem, and to explore possible solutions, the undersigned will furnish you with a list of local attorneys who will make themselves available to you.

Sincerely yours,

PATRICIA J. LINDLEY, *President.*



## IMPLEMENTATION OF THE PANAMA CANAL TREATY OF 1977

---

MONDAY, MARCH 12, 1979

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,  
*Washington, D.C.*

The committee met, pursuant to notice, at 1:35 p.m., in room 310, Cannon House Office Building, Hon. James M. Hanley (chairman of the committee) presiding.

The CHAIRMAN. Our hearing convenes for the purpose of hearing testimony on legislation to implement the Panama Canal treaties between the United States of America and Panama in 1977.

Last month our committee held hearings in Panama during which we were privileged to hear the testimony of representatives of the Panama Canal Company, the Canal Zone Government, citizens associations, and employee organizations representing several employees who work in the zone.

Those hearings were exceptionally informative and productive.

Today's hearing will give us an opportunity to hear the views of the Department of State, the Department of the Army, the Postal Service, and the Smithsonian Institute.

I would like to ask that in view of the number of the witnesses we have and the relatively limited time we have to consider the legislation if witnesses will submit their prepared testimony for the record and summarize their statements briefly we will have a greater opportunity for questions and answers.

I believe we have a good omen today in that we meet on the octave of the Feast of Saint Patrick. Our lead-off witness is a fellow by the name of John Murphy. And, to go one step further, we even have the green tablecloth out for you Chairman Murphy.

Mr. WILSON. Before we commence questioning, do you intend to hold additional hearings or is this to be the only hearing on this subject?

The CHAIRMAN. As of this time we have but 1 day's hearings.

Mr. WILSON. Is there any particular reason for the rush?

The CHAIRMAN. I give the gentleman my assurance that everyone will have the opportunity to be heard.

As you know, the bill will be discharged by April 10. If there are entities which want to be heard they will be accommodated.

Mr. WILSON. You will give that guarantee, then?

The CHAIRMAN. Certainly.

Mr. WILSON. Thank you.

The CHAIRMAN. Our first witness will be our colleague and friend, Chairman Murphy. Mr. Murphy is chairman of the Commit-



tee on Merchant Marine and Fisheries and has a very keen interest in this subject matter.

We are delighted to have you with us this afternoon.

**STATEMENT OF HON. JOHN M. MURPHY, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. MURPHY. Mr. Chairman and members of the committee, thank you for this opportunity to present my views with respect to legislation to implement the Panama Canal Treaty and related agreements. The 1979 legislation to provide for fulfillment of U.S. canal responsibilities to the year 2000 represents one of the three historic crossroads for the U.S. regime governing the canal. Just as it did for the 1955 treaty with Panama, I believe the Post Office and Civil Service Committee has a key role to play this year in providing the U.S. law necessary to totally put the new treaty arrangement into effect.

There are several reasons why I felt it was of importance that I appear before you in the course of your hearings.

First, the Post Office Committee, and the committee which I chair, together have jurisdiction over the legislation for the actual functioning of the U.S. entity that will operate the canal during the next 20 years. Because of our mutual desire to create an operating entity which will represent the interests and fulfill the responsibilities of the United States, and because of the interrelationships between the subject matter in our jurisdiction, there is a need for close cooperation between our committees.

A second reason for my appearance today concerns the great sensitivity of the matters presented to you for deliberation. All of the efforts of the administration, as well as those of the Merchant Marine Committee, to arrive at appropriate terms to implement the treaties, will have no positive effect without the legislative product that the Post Office Committee will be providing for a workable employment system for the canal area and an appropriate program of special employee benefits in the light of changes caused by the new treaty arrangement.

Third, I believe I can be of assistance to this committee by providing some perspectives on the employee and labor situations in the canal zone, particularly as they relate to the operational efficiency of the canal. The Committee on Merchant Marine and Fisheries has in past years closely monitored the Company/Government's management-employee relations because of their impact on canal operations.

Finally, my testimony today permits me the opportunity to provide specific comment on the principles and provisions that should be manifest in the employment and employee benefit issues before this committee for consideration. My comments in this regard are the result not only of the information which has come to me as a result of my present position as chairman, but also the personal interest I have taken in Panama Canal matters since my first election to Congress, and my tenure as former chairman of the Panama Canal Subcommittee.

## ROLE OF THE PANAMA CANAL WORKFORCE

This committee has recently visited the Canal Zone where you expanded your understanding of the role of the canal workforce and its views. Accordingly, I will not belabor the committee with extensive discussion on the nature of the workforce. A few key points deserve discussion, however.

While some canal-related job positions are such that personnel replacements can easily be found, there are certain critical positions in the canal organization and in related agencies which demand highly-skilled personnel in a job field for which recruitment is difficult. The Panama Canal cannot operate efficiently without pilots, tugboat masters and craftsman who hold proper qualifications and work experience. An insufficient number of qualified pilots, for example, will surely lead to an increased number of vessel accidents, loss of transit time, and lowered user confidence thereby threatening the operational and financial viability of the Panama Canal Commission.

Supporting services for canal employees, particularly U.S. citizen employees, must be staffed by qualified professionals such as physicians, nurses and others. Failure to retain qualified personnel for key supporting services of the Department of Defense and other agencies will result in a deteriorating quality of life for our mainline canal employees and in all probability prompt an exodus the canal operation can ill afford.

My conclusion is that all legislation with respect to canal personnel should recognize the critical character of certain positions which, in my view, will be filled for the most part in the next 20 years by U.S. citizens.

Not only do the terms of employment directly affect the operational capability of the organization, the personnel pictures of the present Panama Canal Company and Canal Zone Government and the prospective Panama Canal Commission relate just as directly to the financial viability of these organizations. About one-half of all the costs of the Panama Canal Company and over two-thirds of Canal Zone Government costs relate to personnel. About one-half of all Panama Canal Commission costs and 64 percent of nontreaty payment costs will be personnel costs.

Clearly the fine line must be drawn between being just to the canal employee, and offering incentives to retain him, while at the same time not allowing personnel costs to destroy the financing of the Commission. The limits established by the implementing legislation for compensation and employee benefits will be a major factor in the determination of the financial availability of the Canal Commission. The entire matter is of great interest to the Merchant Marine Committee in projecting the need for future toll increases and the elements to be included in the tolls formula.

A third observation concerns possible discontent within the canal workforce. It is no secret that the uncertainties presented by many years of treaty negotiations and the changes mandated by the new treaty arrangement have severely impacted on the morale of Panama Canal employees, both United States and Panamanian; 6,000 out of 14,000 employees of the canal organization will be taken from its rolls, Families whose members have worked for the



canal for generations will be uprooted involuntarily or, in some cases, voluntarily because of a refusal to live under Panamanian jurisdiction. Many canal employees are putting vessels through the canal this afternoon not knowing whether they will stay or go until they see the terms of implementation.

For those who believed the morale issue was exaggerated, the March 1976 sickout at the Panama Canal became a manifestation of the alienation engendered by treaty negotiations.

From the viewpoint of the committee concerned with the operational efficiency of the canal, the terms and conditions of employment are critical. Given the major impact of the new treaties on the lives of employees, provisions of the Panama Canal Treaty and related agreements contemplating collective bargaining, early optional retirement, guarantees for terms and conditions of employment, and guarantees for legal procedures are fundamental prerequisites for achieving the major U.S. policy objective of the continued smooth functioning of the canal. The achievement of this aim, and a desire to be fair to loyal employees, are why the leaders and membership of the Committee on Merchant Marine and Fisheries have continually taken an interest in the problems of the employees and why we support the benefits provided in the implementing package.

#### PERSPECTIVES ON EMPLOYEE BENEFIT PROVISIONS

Special benefits for employees present some of the major implementing problems with which the Post Office Committee is concerned. It is important to realize the special benefits provided in the implementing legislation such as early retirement, placement assistance, a cost-of-living adjustment and continued recruitment incentives are not new proposals. They have been considered in various forms for some time, many since the inception of negotiations with Panama for a new treaty arrangement to replace the 1903 arrangement. For example:

In the proposed 1967 treaty package a labor annex contained special provisions for retirement, terms and conditions of employment, and other benefits.

In 1971, during a time of more intense negotiations an AFL-CIO labor benefits paper approved at high union levels contained five major recommendations on early retirement, as well as recommendations for placement assistance, terms and conditions of employment, and collective bargaining.

After much prodding and internal and bilateral discussion, the present administration issued two sets of assurances to Canal Zone employees on March 15 and August 29, 1977, regarding such concern as purchasing privileges, retirement coverage, transfer rights, placement assistance, collective bargaining, and early retirement.

Then, of course, in the Panama Canal Treaty itself and the implementing agreements to articles III and IV, signed on September 7, 1977, there are several provisions looking forward to the employment provisions of the implementing legislation. Among the key provisions for employee benefits are paragraph 2(B) of article X promising terms and conditions of employment no less favorable



than those at present, and paragraph 10 of article X promising an appropriate early optional retirement program.

Finally, subsequent to the Senate approval of the treaty, there have been several announcements made to employees concerning administration support for special benefit provisions.

The history of the special benefit provisions is obviously rather extensive. It is clear that the level of benefits intended to be provided in the legislation has been arrived at only after careful and extensive deliberation. It is also clear that after so many years of discussion of special benefits, the employees have built up a rather high degree of expectation of benefits.

My testimony in these hearings on employment aspects of the implementing legislation would not be complete without recounting the involvement of members of the Committee on Merchant Marine and Fisheries, and especially the late Panama Canal Subcommittee chairman, Ralph Metcalfe, with respect to employee provisions of the treaty and implementing legislation.

In the final period of treaty negotiations, the Committee on Merchant Marine and Fisheries took considerable interest in employee welfare within the context of negotiations. In meetings, in correspondence, in personal contacts, members of our committee frequently put forward questions and suggestions relating to the welfare of canal employees, both United States and Panamanian.

Chairman Metcalfe, who was also a member of this committee in 1977 and 1978, devoted considerable attention to the employee problems with the treaty. Our committee records show that he initiated the following important correspondence, all of which is available if this committee wishes to place it in the record.

A January 13, 1977, letter to Ambassador Ellsworth Bunker urging increased dialog of negotiators with employees and their representatives;

A February 9, 1977, letter to Governor Harold Parfitt on transfer rights of U.S. employees; and,

A March 27, 1978, letter to Secretary of the Army Clifford Alexander concerning collective bargaining and medical care under the new treaties.

Moreover, there were other meetings held at the request of Chairman Metcalfe and other committee members on the issue of employees. I would emphasize that in few, if any, cases did our committee members take a position on the details of benefits—rather, the desire was to prompt communication between the negotiators and employees in order to arrive at a mutually satisfactory understanding.

In addition to the correspondence and informal meetings I have cited, the Subcommittee on Panama Canal held hearings and meetings in the Canal Zone in 1974, 1975, 1977, and, most recently, February 23d and 24th of 1979. Many of the employee suggestions presented in hearings were relayed to the executive branch and acted upon. For example, the concept of labor consultants to the U.S. negotiating team was a proposal raised in Canal Zone hearings and later accepted by the administration.

I have recounted the history of these benefit provisions so that the committee might understand how the issues now before it have developed.

## RECOMMENDATIONS FOR LEGISLATION: PRINCIPLES

Mr. Chairman, this brings me to the heart of this statement, certain observations and recommendations with respect to the matters in H.R. 1716 under the jurisdiction of the Committee on Post Office and Civil Service.

As you know, I have introduced H.R. 111, which, like H.R. 1716, would provide for the operation of the Panama Canal under the Panama Canal Treaty of 1977. I strongly support the provisions of H.R. 111, including the provisions parallel to the subject matter in title III of H.R. 1716. I do not mean to imply, however, that the provisions of H.R. 111 deliberately exclude worthy suggestions which you have heard in Canal Zone hearings. The proper committees of jurisdiction ought to consider those suggestions.

There are some principles that ought to guide the Congress in considering legislation on canal employment and employee benefits.

First, in this next 20-year period in which the United States will have primary operational responsibility with a diminishing number of U.S. citizen employees, there will be a need to retain unity of the workforce, United States and Panamanian alike. We should have legislation which avoids focusing on differences in nationality. The Panamanian employees who have served the canal enterprise have proven their dependability time and again, even in the face of hostility on the part of other Panamanians. Certainly we want no claim raised of return to the gold and silver standard.

Second, a key element of U.S. control of the canal in the next generation is the power to regulate relations with employees of the U.S. Government. The implementing legislation must not dilute this right in any respect. U.S. labor law and regulations should apply to the maximum extent permitted by the treaty. The mandate of the agreement implementing article IV for the United States to have the "Terms, conditions and prerequisites for the employment of Panamanian personnel" in the defense areas "conform with the general principles contained in the labor laws of the Republic of Panama" does not mean we must surrender the power to administer those personnel.

It is important to note that the Panama Canal Treaty has no provision mandating that the Panama Canal Commission conform to principles of Panama's labor law. I recognize that there will be a need to phase-in certain aspects of Panama's outlook in the late 1990's, but I suggest we concern ourselves with that at a later time. Now it is important to establish firm control over the personnel practices of the Panama Canal Commission so that the operation of the canal may continue with the least turbulence. This right is squarely that of the United States within the treaty arrangement. My views on this issue are consistent with the general position in H.R. 111 to provide strong control over the Panama Canal Commission.

A third principle to be pursued is that in general, whenever practical, the committee should give application to employee and employment provisions of the implementing legislation to all U.S. agencies operating in the canal area rather than solely the Commission. In the legislation before you the differences in the treat-



ment of personnel of other agencies is based upon the theory that (1) these other agencies are not abolished but rather are only one arm of a larger agency and (2) these other agencies should have their own policies more in conformance with the particular agency's policies in other foreign countries. The problem with this argument is that these agencies are also likely to be separated from the Isthmus of Panama in the year 2000, just as is the Commission. Moreover, the present Canal Zone merit system is centralized for the agencies now operating in the canal area, and works relatively well. Fewer problems are likely to result from a continuation of the centralized system. While conforming the application of many provisions to all U.S. agencies on the isthmus, some differences in the rationale for Commission and other employees have to be recognized.

A fourth principle which I offer to the committee concerns the many representations and petitions made to you in the Canal Zone. The advancement of legislation respecting the organization of the canal and its employees has been stymied for many years because of the uncertainties engendered by treaty negotiations. Moreover, after the period for consideration of implementing legislation it is likely that the canal employees will receive less high level attention than this particular bill affords. If canal employees have legitimate legislative requests, they are most easily considered in the implementing legislation. Therefore, I hope the committee will give serious consideration to the requests made by canal employees and include them in the implementing legislation if the requests are meritorious and do not conflict with the thrust of other employment provisions.

#### RECOMMENDATIONS FOR LEGISLATIVE PROVISIONS

I support the provisions of title III of H.R. 1716. The provisions of that title are a fair and a practical approach to the changes in the circumstances of employment caused by the new treaty arrangement. H.R. 111, which was written after a thorough study of the treaty and the administration bill, presents in chapter 3 of title I most of the same provisions as has title III of H.R. 1716. The variations that are presented in H.R. 111 were prompted by specific concerns for equity and for more precise draftsmanship.

Two matters outside the area of special benefits deserve comment.

Although you and your staff are hard at work on all aspects of the legislation before you, little public attention has been given to the provisions of the implementing legislation on the Canal Zone Postal Service, and more discussion of the issue is needed. Both H.R. 1716 and H.R. 111 contemplate liquidation of the Canal Zone postal system and the provision of limited postal service for U.S. citizen personnel of the Commission by the military post offices in the area.

The major difference between the two bills is that H.R. 1716 simply provides that the Canal Zone code provisions now in effect will continue to apply. Those provisions relate to operation—not the liquidation of the system, while H.R. 111 provides the mechan-



ics for termination of the system, disposition of its funds and liquidation of its liabilities.

In addition to commenting upon the policy issues in the implementing legislation, I have a recommendation on the format of what this committee reports.

The format presented by H.R. 111 makes the substantive provisions of the legislation much more decipherable for members considering the legislation and for the personnel subject to the law after its enactment than does the format of H.R. 1716.

In general, H.R. 111 would repeal title 2 of the Canal Zone Code in which provisions of major concern to both our committees now appear, and substitute new language which would conform as closely as possible to the chapter arrangement and section numbers of title 2. Under this plan provisions on employment authority and conditions of employment such as pay, leave, and retirement are consolidated in accordance with the particular subject matter involved. Further, provisions of the code now in effect that are to continue are set out in full. I commend this format to your consideration.

Should the Committee on Merchant Marine and Fisheries report its portion of H.R. 1716, I intend to recommend to the committee that regardless of the substantive provisions we use the longhand type of format contained in H.R. 111.

Before concluding, allow me to urge the committee to report H.R. 111, despite whatever fate might be met by title III of H.R. 1716. H.R. 111 more carefully protects U.S. interests and is a more balanced approach. Should this committee decide to report H.R. 111, I would urge close consultation with the Merchant Marine Committee so that necessary modifications could be made in unison.

#### CONCLUSIONS

Within the next month the Committee on Post Office and Civil Service faces the same formidable challenge which confronts the Committee on Merchant Marine and Fisheries—we must make decisions greatly affecting U.S. interests on the Isthmus of Panama, with consequences for the next 20 years.

Together we and the other appropriate committees can fashion a cohesive piece of legislation which will protect U.S. interests to the maximum extent possible in the framework of our cooperative arrangement with Panama. I am confident we will achieve our goal.

Thank you.

The CHAIRMAN. Thank you very much, Chairman Murphy, for your very excellent testimony.

I want very much for the four committees with jurisdiction to work closely through the weeks ahead in an effort to produce the best possible piece of legislation to implement the treaty.

During the course of our hearings in Panama we tried hard to give assurance to Federal employees there that we wanted very much that they be treated fairly. That is in large part our mission. We are attempting, then, to come up with what would be a fair and equitable formula.

Like many things in Congress, as you know, cost is a significant factor.

I believe on page 4 of your testimony you alluded to costs. What was the source of your information and percentage figures?

Mr. MURPHY. On personnel costs?

The CHAIRMAN. Yes.

Mr. MURPHY. Those are Canal Company figures. They were the basis for this analysis.

The CHAIRMAN. We have been searching, and as of this point we have figures ranging anywhere from \$270 million to about \$500 million.

Mr. Wilson?

Mr. WILSON. Yes; Mr. Chairman.

Mr. Murphy, I am interested in the cost figures also.

Are the cost figures to which you referred and which Chairman Hanley asked you about similar to what Mr. Campbell testified to before your committee?

Mr. MURPHY. Yes.

I would like to submit for your record the cost analysis of our committees in arriving at this so you would have the details of it. [The information follows:]

The figures about which Chairman Hanley inquired, the percentages of total cost of the Panama Canal Company, Canal Zone Government, and Panama Canal Commission which are personnel costs, were supplied by the Panama Canal Company and are based on the figures available in the Presidential budget presentation for fiscal year 1980.

The Committee on Merchant Marine and Fisheries has no evidence to prompt disagreement with the figures presented to the Committee by the Director of the Office of Personnel Management. Director Campbell estimated that the total cost of liberalized retirement provisions under the legislation is \$205 million, exclusive of transfers of certain sums to the Republic of Panama. In testimony before the Committee on Merchant Marine and Fisheries, the General Accounting Office estimated that the total cost of optional early retirement provisions would be \$270 million.

Mr. WILSON. You see, we have not been able to get any information as to how Mr. Campbell got his figures. OPM has refused to give us the manner in which they arrived at their figures. I think it is extremely important that we learn somewhere along the line how these figures have come about and whether or not they are accurate.

Mr. MURPHY. I think we have seen through the treaty process an ambiguity and a vagueness that we in the House are now going to have to draw together as we get into specific implementation legislation.

Perhaps people felt the treaties could not be passed unless there was a vagueness.

One of the problems we have run into is the interpretation of money items by former Panamanian negotiators totally different from the stated understanding back at the ratification time by the Senate. This is something we intend to pin down between now and the time our committee marks up the legislation.

Mr. WILSON. You agree, then, that we probably have had many things misrepresented to us during the treaty process and that the costs of this treaty were not honestly presented to the Congress?

Mr. MURPHY. I guess it depends on who presented what to the Congress.



However, in late February in meetings in Panama, in the area of a contingency payment of \$10 million, we had members of the Panama Canal Authority, which is the Panamanian agency that is responsible for coordinating at this phase the takeover of Panama's responsibilities on October 1 of this year—we found a contingency \$10 million payment was considered by them to be part and parcel of the base figures. This was not the understanding of the U.S. negotiators nor the U.S. Senate at the time of ratification.

We then found an ex post facto element arising—that Panama felt they had the right and opportunity to tax retroactively all corporations operating in the Canal Zone, which certainly would put over 100 contractors out of business if that occurred.

There are other vague portions of supposed understandings that we will have to pin down within the next month.

Mr. WILSON. As you well know, the first tolls which were in effect when the canal was opened in 1914, amounted to 90 cents a ton. Today it is \$1.28. In other words, since 1914 up until 1979 there has been that very, very small percentage of increase in tolls.

The U.S. taxpayer, in the meantime, has been paying three-quarters of \$1 million every year just to maintain the Balboa Bridge that goes over the canal.

Would you agree with me, then, that the costs should be borne by the tolls on the canal rather than by the American taxpayer?

Mr. MURPHY. You go right to the heart of the philosophy of H.R. 111 versus H.R. 1716.

H.R. 111 specifically lays the costs onto the users whereas 1716 would place the burden to a great extent, in implementing the treaty, on the American taxpayer.

H.R. 111 in section 240 goes right to the point that the toll base should certainly bear this extra incremental cost of early retirement and other benefits.

Mr. WILSON. Fine. Thank you.

The CHAIRMAN. Mr. Corcoran?

Mr. CORCORAN. We appreciate your interest and your testimony here this afternoon.

One of the things that bothers me a bit about the section in your bill and the comparable section in the administration bill dealing with the retirement benefits is that there seems to be some feeling that no matter how liberal we make the retirement benefits we will still have a very difficult time keeping U.S. citizens and the Panamanian citizens who presently work in the Canal Zone and for the Canal Company employed under the new jurisdiction. I think we saw that in our hearings and I wonder whether you might have seen it when you were in Panama. I think it is most important, if we are to maintain the first-rate canal operation that we have, to try to retain those employees.

Regardless of how generous that retirement benefits might be as provided in both bills, I wonder whether or not we will still be able to retain the people presently working at the canal.

What is your impression?

Mr. MURPHY. The critical time periods in the operation of that canal will come in the 6 months following October 1, 1979, and it will be at that point when the confidence of the very key people will either be kept or not kept by the Canal Commission. It will be



the transition into a new school system under the Department of Defense, a police force of Canal Commission personnel and then sanitation, fire, and the entire range of municipal services provided by the Government of Panama.

I think the canal employees, particularly the key employees, are very reasonable. They have shown apprehension, and I am sure this committee came to understand their apprehensions when you went to Panama.

I think there will be a period of waiting to permit Panama to move in and to get some experience in providing those services.

If the employees feel they are being prejudiced and they are not living in what is a quality-of-life area, they will not stay. This 6-month period will be a crossroads in the life of that canal.

The other period of time, of course, will be in 1990 when the Administrator of the Commission changes from being a U.S. national to a Panamanian national.

Then in the year 2000, when Panama itself takes over all jurisdictions and functions, the final crossroads for the United States will have come.

Those are the critical areas, and they will all involve retaining the confidence of the key employees in the operation of what are considered essential services.

Mr. CORCORAN. Are you saying that the retirement benefits would be secondary to the attitude exhibited by the Government of Panama when it takes over these responsibilities in October of this year?

Mr. MURPHY. To an extent I do.

Mr. CORCORAN. Thank you.

The CHAIRMAN. Thank you, Mr. Corcoran. Mr. Ford?

Mr. FORD. Thank you, Mr. Chairman.

Chairman Murphy, this committee is certainly looking forward to an opportunity to take advantage of your years of experience with the very complex relationships we have within the Panama Canal Zone.

I think there has been a tendency on the part of proponents and opponents of the treaty to overlook the very serious legislative problems we will have in trying to implement the spirit of the treaty while at the same time protecting the interests of the employees involved.

I note with interest that one of the principal differences between your bill and the administration bill is the way in which you would apply the regulations with respect to collective bargaining rights for the employees.

There is a rather minor-appearing but rather serious difference in the language in that your bill says title VII of the Civil Service Reform Act, the labor-management provision of that legislation, will be incorporated into regulations.

While I am not sure I would want the Secretary of Defense making the regulations, nevertheless you mandate the incorporation of the exact language of the applicable provisions of title VII, while the administration bill says that the President will establish collective bargaining procedures into which is incorporated the substance of title VII.

Our experience in dealing with the administration on the writing of title VII indicates that there is a good deal of difference between the majority of this committee and the administration as to what the substance of the specific provisions of title VII really are. As a matter of fact, they are presently engaged in Scotty Campbell's shop in trying to rewrite history and explain away a good many of the employee rights that were specifically incorporated in that legislation, after, I might say, a great effort on the part of this committee.

It was not an easy piece of legislation to write.

There are suggestions that numerous organizations representing the employees are really seeking a hybrid system applicable only to the Canal Zone.

We have the problem of the administration's bill specifically writing out title VII of the Civil Service Reform Act, and section 303(C) of their bill, H.R. 1716, first, in effect repeals the provisions of that act for the employees and then proceeds to take some parts of this—I have not had time to determine whether they have really taken this out of context or not or why they picked these particular parts and not others—which will be incorporated in substance, which means they will be incorporated as interpreted by whoever does the incorporation, and in substance it would be a hybrid system down there with a newly created labor board. That is in spite of the fact we followed the administration proposal to create the Federal Labor-Relations Authority which was intended to be the National Labor Relations Board for Federal employees.

Presumably, then, this goes to the questions Mr. Wilson was asking as to who bears the burden. If we do not resolve the question of whether we are going to do the Federal legislation, control labor-management relations for the employees down there at least during the 20-year transition period, or the Panamanians control it, we leave it up in the air. What is likely to happen in your opinion in terms—I am not now asking you to commit yourself to specifics but there is a basic question here as to whether we should write a labor law which applies to all of the employees for the next 20 years or whether there should be some combination of Panamanian law applying to Panamanians and American labor law applying to the American employees.

What in your opinion would be the impact of adopting the hybrid system which separated the employees by nationality?

Mr. MURPHY. I think we would probably run into trouble down the line if that did take place.

The main intent of the labor-management provision was not to take all U.S. citizens from underneath title VII or to put Panamanians under the title but rather to cause labor relations across the canal area to be on a relatively equal footing.

I think provisions for a central examining office in section 308 of H.R. 1716 and section 115 of H.R. 111 and other centralizing mechanisms for the canal area employment are already in the implementing legislation.

If we keep it together at the outset I would think perhaps U.S. labor law and not Panama labor law would lay the base for the future labor relations in the canal.



Mr. FORD. In one respect the Panamanian labor law is more liberal than ours because it permits employees the right to strike, but it is a rather hollow right. That law has been suspended because they did strike, or threaten to strike, and Torrijos simply said, "we will not apply the law."

Therefore, giving them protection of the Panamanian law would, it seems to me, not be much assurance to the American employees if we throw them to the mercy of a law which can be suspended by an executive act. We are putting them back where Federal employees were before we went through this entire exercise of protecting the Federal employee.

Mr. MURPHY. President Teddy Gleason of the International Longshoremen's Association went to Panama on one occasion to do some organizing. He was arrested at the hotel where he was staying. Fortunately he was photographed as he was being arrested. He was placed in jail and then exported from the country. He has not been back since, but I think that is probably an illustration of the Panama labor law implementation, and therefore I think it is quite incumbent upon us to try to get a U.S. labor law at the very outset.

Mr. FORD. In your opinion as one of the outstanding experts on the entire progress of these negotiations over the years and the ultimate product of the negotiations, do we have an obligation under the treaties to refrain from protecting the employees regardless of citizenship or nationality of the company, at least during the next 20 years, by Federal labor law?

Mr. MURPHY. I think we have an implied responsibility to the employees of the Commission, whether they be American or Panamanian.

Mr. FORD. But we have made no commitment in these treaties that we would not do this, have we?

Mr. MURPHY. To the Americans we have.

Mr. FORD. That we would?

Mr. MURPHY. Yes.

Mr. FORD. But we have not in any way traded away to the Panamanians the authority to superintend the collective bargaining relationships between the employees and the company?

Mr. MURPHY. No.

Mr. FORD. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Ford.

Mr. Courter?

Mr. COURTER. Thank you.

On page 4 of your testimony at the bottom you indicated reduction from 14,000 employees to 6,000.

Over what period of time?

Mr. MURPHY. That will take place on October 1.

Mr. COURTER. Right on October 1?

Mr. MURPHY. Yes.

Mr. COURTER. As to the cost differential between your proposed legislation, your bill and that of the administration, have you made a determination of that?

Mr. MURPHY. The cost differential is really a question of who will pay the piper. The administration bill, of course, was touted in the press as causing only a 14-percent toll increase whereas H.R. 111 would cause perhaps a 25- or 26-percent increase.



Well, we are yet awaiting the figures to substantiate the 26-percent increase. There will be a toll increase, yes, and 111 would cause a higher increase in the tolls at the outset. However, 1716 throws additional costs off onto the U.S. taxpayer.

As to the cost of payments to Panama, we figure the cost will be an \$85 million a year payment to the Republic of Panama.

What part of that cost is recoverable through the toll formulas is another question.

Mr. COURTER. You say the media indicated that H.R. 111 had the toll increase at 26 percent?

Mr. MURPHY. That was the statement made.

Mr. COURTER. Do you know the basis of the information which caused the media to say a 26-percent increase?

Mr. MURPHY. Yes. They extrapolated several things, one being the fact that 111 calls for a \$20 million per year payment to the United States in interest and in amortization for the canal; 1716 does not contain that item.

Mr. COURTER. Is the media statement justified that there would be a 26-percent increase?

Mr. MURPHY. That and some other bookkeeping items that the Governor had felt should be put in.

Mr. COURTER. Mr. Chairman, do you strongly take issue with that media release of 26 percent?

Mr. MURPHY. Yes; I do.

I don't take issue with the fact that there is probably a 15-percent difference in the toll increase. What I take issue with is who will pay for the implementation.

In effect 1716 would have the American taxpayer pay whereas the thrust of 111 is to have the industry and the users pay.

Mr. COURTER. Has there ever been a determination—perhaps further on down the road you will have one—as to whether the U.S. taxpayer will have a saving if H.R. 111 is passed and not the administration bill?

Mr. MURPHY. I could give you a detailed answer to that over the 20-year period which would amount to hundreds of millions of dollars. I would like to supply that for the record.

Mr. COURTER. Could you supply that? That will help me a lot.

The CHAIRMAN. Without objection, so ordered.

[Material to be supplied follows:]

Based on cost estimates for each of the factors as presented by the General Accounting Office, the chairman of the Committee on Merchant Marine and Fisheries estimates the following differences in the cost of H.R. 1716 (the administration proposal) and H.R. 111 (the Murphy proposal):

Cost	Amount 1980-2000	H.R. 111	H.R. 1716
Interest payment .....	\$400,000,000	Payment from Canal users continues.	Payment discontinued, loss in Treasury receipts.
Optional early retirement.....	270,000,000	Paid by Canal users through tolls.	Paid by Treasury via Civil Service Retirement Fund.
Defense relocation (5 yrs.) .....	88,000,000	Paid by Treasury from appropriations	Paid by Treasury from appropriations.
DOD health services in Panama ....	22,000,000	.....do .....	Do.
Sundry initiatives .....	19,300,000	Paid by Treasury from appropriations in main or whole.	Paid by Treasury from appropriations in main or whole.
Added educational costs for dependents of employees transferring to DOD.	Unknown	Paid by Treasury from appropriations.	Paid by Treasury from appropriations.
Adjustment of compensation for loss of privileges.	Unknown	Presumed to be paid by users of Canal through tolls.	Presumed to be paid by users through tolls.
Total .....	<sup>1</sup> \$799,300,000		

<sup>1</sup> Plus 2 unknown factors.

H.R. 111 costs: Canal users—\$670,000,000; taxpayers—\$129,300,000.

H.R. 1716 costs: Taxpayers—\$399,300,000; Canal users—0; taxpayers loss—\$400,000,000.

Mr. COURTER. Thank you.

I have no further questions.

The CHAIRMAN. Thank you, Mr Courter.

Mrs. Schroeder?

Mrs. SCHROEDER. A lot of the questions I was going to ask have been asked. Let me briefly add one more.

We heard some comments about how some money could be saved in the operation of the canal as they start replacing current Panamanian workers with new workers on a lower wage scale than currently being paid by the Panama Canal Company.

I wonder whether you heard the same thing there and whether you have any feeling regarding that.

Mr. MURPHY. Mrs. Schroeder, with respect to how payments to Panama relate to the wage scale the treaty calls for a \$10 million payment up front to the Commission for the services that Panama will take over as of October 1. An analysis of the cost to the Panama Canal Company of those services today would indicate that they cost in the range of \$5½ to \$6 million. After 3 years that figure will be reevaluated. So Panama is getting \$10 million per year to provide those services.

I am sure they will keep the payments to the individual employees up to a level to justify that \$10 million figure.

Based on that, I think the negotiators worked that into the treaty with the specific intent of having an incentive for Panama to maintain payroll and services at that perhaps maximum level.

Mrs. SCHROEDER. So you would be supportive of keeping them at that level?

Mr. MURPHY. It is in the treaty that we pay Panama \$10 million for public securities for the first 3 years of the treaty. I don't think we have any choice.

Mrs. SCHROEDER. Thank you!

The CHAIRMAN. Thank you, Mrs. Schroeder.

Mr. Pashayan?

Mr. PASHAYAN. Thank you, Mr. Chairman.

In your opening statement, Mr. Murphy, you mentioned that the ability and the willingness of the employees to perform their duties would be affected by the kind of legislation we would pass.

Would you go so far as to say that such a situation may or may not affect the stability of that region? If so, would you comment on that, please?

Mr. MURPHY. The stability of the region, of course, is a function of the U.S. presence. In the 1967 treaties, which were really three treaties, there were two nonnegotiables. One was defense of the canal and the other was operational control.

Panama rejected the 1967 treaties even though the dollar amounts and the benefits to Panama at that time I thought were very satisfactory.

The documents ratified by the Senate in 1977 did not hold to those principles but rather phase in Panamanian military presence, in fact right on the banks of the canal at the very outset. The question of Panama defending the canal was who would they defend it against? The only people they could defend the canal against were the Panamanians.

Of course, I would think that time will have to tell what stabilizing influence we will have with that Panama military presence right on the banks of key parts, in fact both entrances to the canal.

I just think that a cooperative attitude is important, and I think H.R. 111 builds in for the American people and American security the chain of the Defense Department having supervision over the Commission. H.R. 1716 does not have this, but keeps the principle of today with the Panama Canal Company being overseen by the Department of the Army. It keeps a defense presence in the Canal Commission through that period of time. I think that is very important.

I also think that in 111 there is an element of fiscal responsibility that the American taxpayer will recognize since all toll collections come into the Treasury and the appropriations process of the House is used, and then disbursements are made, whereas in 1716 the Commission would collect certain moneys and make payment directly to Panama.

I think the approach taken in 111 is far better and more saleable to the American people as well as to the Congress, and it will keep the confidences of Americans in that area much more so than the 1917 provisions.

Mr. PASHAYAN. So what you are saying, to restate it perhaps in slightly different terms, is that there is a positive relationship between the effects of H.R. 111 on the efficiency and the performance of these employees and thereby having some impact on the stability. If the canal is not run efficiently, let's look at it from that point of view—if it is run ineffectively—would that not affect the stability of the canal and, therefore, of the region?

Mr. MURPHY. People run the canal.

The way those people react has already been shown. We have seen accident rates and disciplinary rates with alarming increases in just the past year in contrast to the previous history, showing the apprehension, I think, of people. It has shown up in their job performance, in their relationships with their superiors.



Mr. PASHAYAN. Then you would agree with the proposition that H.R. 111 would have a more favorable impact on the stability of the region in contrast to the other bill?

Mr. MURPHY. Yes, sir.

Mr. PASHAYAN. Thank you.

The CHAIRMAN. Thank you, Mr. Pashayan.

Mr. Albosta?

Mr. ALBOSTA. No questions.

The CHAIRMAN. Mr. Stenholm?

Mr. STENHOLM. I have no questions.

The CHAIRMAN. Mr. Dannemeyer?

Mr. DANNEMEYER. I have a copy of H.R. 1716, specifically section 68. It talks about lines 7 through 11 transferring assets to the Panama Canal Commission.

Is there a similar provision in your bill, H.R. 111?

Mr. MURPHY. Yes, but H.R. 111 transfers the assets to the United States.

That is a legal requirement, to provide for the control of property.

Of course, that was one of the issues which was raised during the treaty ratification process where the U.S. Congress, both House and Senate, presumably both being Members of Congress, had the property-transfer power as well as the appropriations power.

Mr. DANNEMEYER. The U.S. Supreme Court in its decision in this area I think observed that a transfer of U.S. property can take place either by a treaty or by an act of Congress. Since the treaty was deemed to transfer the property in and of itself the Supreme Court said that is proper and it would pass muster. That is what puzzles me.

If the property was transferred by the treaty why do we need it in the legislation?

Mr. MURPHY. I think that was a court of appeals and not the Supreme Court that rendered the property disposal question.

Mr. DANNEMEYER. Which the U.S. Supreme Court declined to review.

Mr. MURPHY. That is right. The issue never went to the Supreme Court.

I think that was just a way of getting around the requirement of having the House and the Senate pass a joint resolution to implement the treaties. Of course, it would have been just a majority vote in the House.

Every property transfer in the history of Panama had been done by joint resolution or authorization of the House and Senate. I think going around the House of Representatives was just a device to facilitate ratification of the treaties.

Mr. DANNEMEYER. I have not read the entire bill but can you tell me how much money the U.S. Government will receive as a result of this language in section 68 of H.R. 1716 which transfers this property to the Panama Canal Commission?

Mr. MURPHY. I don't think the U.S. Government gets any money in that transfer.

Mr. DANNEMEYER. What is the value of the property being transferred?

Mr. MURPHY. The value is in the multibillions of dollars.

Mr. DANNEMEYER. You mean the taxpayers of this country are to receive nothing for the transfer of that property?

Mr. MURPHY. Yes, sir.

Mr. DANNEMEYER. And I as a Member of the Congress should vote for a law which would transfer billions of dollars of property and get nothing in return to the U.S. taxpayer?

Mr. MURPHY. I think the returns to the taxpayer go to a treaty that was never discussed, and that was the Hay-Pauncefote Treaty. The United States entered into that treaty to build and operate the canal for interoceanic commerce. That was the responsibility we took on at that time at the very outset, and the benefits to the United States are the uninterrupted operation of that waterway. That, in effect, is a very tangible benefit to the United States.

Mr. DANNEMEYER. Thank you.

The CHAIRMAN. Thank you, Mr. Dannemeyer.

Mr. Derwinski?

Mr. DERWINSKI. Mr. Murphy, I commend you for your special interest in this subject. This is obviously as tough an issue as will face the Congress all year. Somebody has to take the lead.

Mr. MURPHY. Please don't read into it anything about that being another of my alleged special interests.

Mr. DERWINSKI. After you have solved this problem you should consider devoting your attention to the problem of northern and southern Ireland.

Mr. MURPHY. We intend to devote some time on Saturday to that problem.

Mr. DERWINSKI. Have you calculated for us the specific cost in the area we would like to discuss?

Mr. Dannemeyer touched on a intangible subject, the value of the property which the treaty provides be transferred to the Panamanians. As to specific costs I do not find any specific calculations.

Mr. MURPHY. In response to one of the committee members earlier I said I would provide a document listing the specific costs involved.

Mr. DERWINSKI. Thank you.

Mr. MURPHY. I said they would be in the many hundreds of millions of dollars.

Mr. DERWINSKI. Thank you.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mr. WILSON. One additional question.

Mr. Murphy, during the course of the hearings before the Senate, if I am not mistaken, the Chairman of the Joint Chiefs and each of the Chiefs of the services indicated that the canal was indefensible at the present time. I feel they are able to defend the canal.

Is it your opinion in the years you worked on the Panama Canal Committee and on the Committee on Merchant Marine and Fisheries that that assessment is accurate? If so, why should we retain military troops in the canal beyond October 1?

Mr. MURPHY. In Panama the United States has traditionally had a military presence. Originally the canal was considered part of the coastline of the United States. It was clearly laid out in congressional debate.

We maintained a military force in that area to defend the canal but also for hemispheric stability.

The schools the Army conducts in the canal—and incidentally the new President of Panama had gone to those schools and had some very favorable comments to make about retaining them—are of hemispheric importance.

Mr. WILSON. As long as we pay for it.

Mr. MURPHY. Of course.

The Latin countries would send their military people, noncommissioned officer right through officers, there for the many specialty areas of training. It is an ideal liaison for the United States with its Latin neighbors.

The defense of that canal, however, of course is a function of the type of assault that could be made. We have heard so much about a possible Vietnam in Panama if the canal is not immediately truned over. It is my considered opinion from some experience that the canal was certainly defensible from local attack. I think, however, the importance of the canal to the United States was never more apparent to the American people than during the Cuban missile crisis when we had the need for rapid communication and movement of vessels from the west coast to the east coast in order to meet that contingency. Those of us who were in the Congress at that time understood that. The communications inabilities in Panama at the time were subsequently corrected.

I might say in defense of the Joint Chiefs that I had a hearing on August 17, 1977, just prior to that September 7 initialing of the document. I had the former Chief of the Joint Chiefs of Staff, Admiral Moorer, testify.

He led off his statement by saying that being a former Chief he now had his first amendment rights back.

His opinion differed 180 degrees from the opinion of the Chiefs who were currently serving on active duty.

Mr. WILSON. I think that is the answer to my question.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Ford?

Mr. FORD. Mr. Chairman and Chairman Murphy, I don't want to belabor the point with regard to specifics of the two bills before us with regard to collective bargaining, but I see the possibility of a wedding without benefit of a shotgun between the approach taken in both bills.

It is interesting that in some ways the administration bill is preferable in its choice of language and in others it is certainly inferior to your approach.

However, in both bills you have enumerated specific sections of title VII of the Civil Service Reform Act which must be incorporated in substance, in the case of the administration bill, and in your case incorporating it without qualifying words.

Then the administration states:

The form of collective bargaining so established shall contain such other necessary provisions and shall be administered so as to provide the Commission's employees with the right to bargain collectively.

Your bill trails off with the language after enumerating "such regulations shall include" and it seems to apply to the totality of the regulation—"such provisions as are necessary." If the word "other" in the administration bill were put in it would solve our problem.



Did you intend to limit the regulations for this hybrid system to be established to those sections you enumerated or did you intend that any that might have been left out by drafting would be incorporated if they were consistent with what other Federal employees had by way of rights?

Mr. MURPHY. Our real attempt was to try to have U.S. labor law be the overriding consideration at the outset.

One of the reasons I wanted to be here early in the testimony was to assure you and the chairman of the committee particularly that if there is a difference in wording that we can agree on a common position and we can very easily probably report from both committees the same language.

Mr. FORD. I raise this question because very quickly the staff just ticked off some of the things that were left out by enumeration, things we consider very important. If the enumeration, is accepted as being an exclusive definition of what the regulations were, whether promulgated by the President or the Secretary of Defense, and that is one of the differences in the bills, and it were to be considered by the language of these bills to be controlling, we would be omitting section 7103 of title VII which contains various definitions, including the words "grievance," "collective bargaining," "conditions of employment," and "exclusive representative." Those are absolutely essential to having any kind of system.

In section 7111 we have "exclusive recognition of labor organizations," in 7112 "determination of appropriate bargaining units," in 7113 "national consultation rights," in 7114 "representation rights and duties," in 7115 "allotment of dues" and "duty to bargain in good faith," in 7118 "prevention of unfair labor practices," in 7119 "negotiation of unfair practices," in 7121 "grievance procedures." And more important than all the rest and one of the most difficult parts we included, in 7123 "judicial review."

Would you have any objection from your perspective to the inclusion of that type of enumeration in addition to your enumeration of picking up those essential rights in establishing this hybrid system?

I keep referring to it as a hybrid system because the administration has proposed in its bill a hybrid system but applicable only to the company employee. However, there are other American employees in the Canal Zone who are affected by this legislation if it passes. Those other employees would, absent the language at the beginning of the labor-management section of either of the two bills, be covered for these things.

Mr. MURPHY. Initial review would be in a Panamanian court.

Mr. FORD. We will have to take care of that so it doesn't happen.

The CHAIRMAN. If the gentleman would yield, the gentleman from Michigan makes a good point.

Certainly prior to the markup of the bill we will be meeting for the purpose of final review and preparation of whatever amendments the majority of the committee deems appropriate.

Are there any further questions? If not, Chairman Murphy, our deep appreciation in having us benefit from your expertise on this subject matter. We are deeply grateful for your time and effort here today.

Mr. MURPHY. Thank you, Mr. Chairman, and thank you, members of the committee.

The CHAIRMAN. Our next witness will be Ambassador David H. Popper, special representative of the Secretary for Panama Treaty Affairs.

Ambassador Popper?

**STATEMENT OF DAVID H. POPPER, SPECIAL REPRESENTATIVE  
OF THE SECRETARY FOR PANAMA TREATY AFFAIRS**

Mr. POPPER. Thank you, Mr. Chairman.

The CHAIRMAN. We are delighted to have you with us today. I am certain your testimony will prove meaningful to the deliberations of this committee.

Mr. POPPER. Thank you, Mr. Chairman. You are very kind.

I appreciate the opportunity to be here to present the views of the Department of State on matters of interest to this committee in connection with various legislative proposals designed to implement the Panama Canal Treaty of 1977.

Your committee is, I know, familiar with the general background of this subject.

As others have explained, the Panama Treaties of 1977, having been duly ratified by both parties, will go into effect on October 1. For us and for Panama, they will be a part of the law of the land. Under the treaties, Panama will have general jurisdiction over what is now the Canal Zone, but we retain the right to operate the canal, in accordance with treaty terms, until the year 2000, and to defend the canal permanently.

These rights will be exercised by the Panama Canal Commission, a U.S. Government agency, and by the U.S. military forces.

The legislation before you will give us the tools to do what we are authorized to do under the Canal Treaty. It will fill out the general framework contained in the treaty, enabling the U.S. Government to maintain the canal as an artery for world commerce, open to all on equal terms, until the end of the century.

As the committee recognizes, there is an element of urgency in considering the legislation. Preparatory steps must be taken so that we may move with the least possible dislocation to the new status which is to exist after October 1. For this reason, our target date for the completion of legislative action in the Congress is June 1. By carrying forward these hearings, your committee is making an important contribution in this regard.

Other governmental agencies, notably the Department of the Army, the Panama Canal Company, and the Office of Personnel Management are better equipped than the Department of State to discuss the technical aspects of the programs contained in the legislation to meet the changes in conditions resulting from the Canal Treaty. I should like to confine myself to some more general comments focused on our broader purposes and requirements in the labor and employment field.

Let me say at the outset that the personnel problems arising from conversion to the new treaty status are among the knottiest we have to face in this legislation.

A number of elements must be considered in making decisions in these matters. We are dealing with human lives and careers: we



must be just and sympathetic toward those who have devoted years of service to the efficient operation of the canal. We must be fair to present employees and to new ones. We must fashion employee relations, employment and retirement policies which offer incentives appropriate to the personnel objectives we want to achieve. And in seeking these goals, we must not ignore the budgetary consequences of our actions, or fail to determine how the necessary adjustments will be financed.

Under article X of the Canal Treaty, the United States retains broad authority to establish employment and labor regulations covering all categories of employees of the Panama Canal Commission, the operating U.S. agency to be established through the implementing legislation. The fundamental decisions regarding personnel policies and practices, that is to say, are a matter for our determination. At the same time, the treaty provides that our regulations should be given in advance to the Republic of Panama.

We have an evident interest in cooperating with the authorities of Panama in setting up and maintaining the new employment conditions. Over 70 percent of the present Canal Company employees are Panamanian. This proportion will rise over time, as the terminal date for U.S. operation approaches.

The treaty lays down in article X a number of guidelines for employment in the Panama Canal Commission, to which the employee relations provisions of the implementing legislation should conform. It is useful to keep these in mind.

Present employees are to retain terms and conditions of employment which are in general no less favorable than those they now have.

Panamanians are to have preference in hiring, provided they possess the necessary qualifications.

Panamanian employees are to benefit from training programs enabling them to assume positions which become available.

U.S. citizens hired in the future will be employed by the Commission for not more than 5 years and then rotated to other employment.

Discrimination on the basis of nationality, sex or race, as regards wages and fringe benefits, is banned, though certain inducements for currently employed U.S. nationals and for persons who will be recruited from outside of Panama will be permitted.

Whenever possible present employees who lose their jobs because the United States gives up certain activities under the treaty will be given an opportunity to transfer with the position to the new employer; both Governments will provide placement assistance to their citizens who are displaced from employment as a result of the treaty.

The right of employees to engage in collective bargaining with the Panama Canal Commission is recognized, in accordance with basic U.S. practices.

Finally, the treaty provides that there should be appropriate early optional retirement programs for present employees of the Panama Canal Company and the Canal Zone Government. Such arrangements will be offered to personnel involuntarily separated, or as an inducement to present employees to continue on the job.



The implementing legislation applies these general provisions to the canal work force. Approximately 60 percent of the employees—some 8,000 Americans and Panamanians—can continue in their present jobs under the Panama Canal Commission, unless they choose immediate retirement, or resign. Others—approximately 3,200—can transfer to Department of Defense employment as the activities they service, such as health and education facilities, are taken over by the Defense Department. Finally, the U.S. Government will no longer carry out functions currently involving some 2,500 employees. As Panama takes over some of these—the ports, the railroad and other ancillary operations—these employees will have an opportunity to carry on in them.

Thus, in spite of all the protective provisions of the treaty, it is clear that the work force is being subjected to drastic realignment. Individuals who had expected to pass their working lives in Canal Zone careers are now beset with uncertainties. Until the implementing legislation is passed, they cannot be sure precisely what their alternatives are. At the same time, the canal management must initiate the extensive administrative actions required to restructure the work force along the lines I have just indicated. Both management and employees will thus be subjected to a very serious test in the months ahead.

Our overriding purpose during this period must, I believe, be to bring about as orderly a transition as possible. We must do all we can to insure the uninterrupted operation of the canal, for both commercial and defense reasons. And the work force is the key to the attainment of this objective. A last-minute exodus of skilled employees would be a very serious matter.

For this reason it is desirable to give American personnel persuasive grounds for concluding that the quality of life they have enjoyed under U.S. jurisdiction will not be unnecessarily disturbed. Accordingly, they will continue in accordance with the treaty to enjoy educational and health benefits of the kind they have previously had, as well as retain purchase benefits, to be exercised at military post exchanges for 5 years, with a compensatory differential thereafter.

Moreover, to allay suspicions regarding their treatment under Panamanian jurisdiction, a number of special protective measures have been provided for Americans.

First, Panama has agreed as a matter of general policy to waive jurisdiction in favor of the United States, at our request, in cases against American employees.

Second, in cases where an American may face charges by Panamanian authorities, a number of procedural guarantees are established, including the right to a speedy trial, to a lawyer of choice who will be present at all phases of the proceedings, to full disclosure of charges, and to other similar provisions. These guarantees are set forth in an agreement in implementation of the treaty.

Third, the two Governments have concluded a treaty which, when ratified, will permit American citizens convicted of crimes in Panama—and Panamanians convicted in the United States—to serve their sentences in their own countries.

Finally, the consular staff of the U.S. Embassy in Panama is being strengthened to extend welfare, protection, passport and citi-

zenship services to Americans who will be living under Panamanian law.

Taken together, the employment, economic, and legal benefits provided under the treaty and the implementing legislation should largely overcome the doubts of American employees as to whether they can carry on satisfactorily while working under foreign jurisdiction. It will be in Panama's interest, as well as our own, to reassure American employees by word and deed in this regard, through faithful adherence to the letter and spirit of the treaty.

The labor provisions of both the administration bill and Chairman Murphy's bill (H.R. 111) are broadly similar. There are, however, a number of differences between the bills. I should like to mention two in particular.

In the area of labor-management relations, both bills recognize the desirability of exempting U.S. citizen employees of the Commission from the provisions of title VII of the new Civil Service Reform Act. They propose the establishment of a special Panama Canal Employment System for all Commission employees, United States and non-United States, which would parallel the Civil Service system. Chairman Murphy's bill would also exclude U.S. nationals of other Federal agencies in the area from the provisions of title VII. We had considered this approach but felt that the unique characteristics of the Commission, a transitional agency with a large non-U.S. work force, justified separate and special treatment for Commission employees only. We believe American civilian employees of the Department of Defense, for example, should be covered by title VII, as Americans are in other base installations outside the United States.

A second difference between the two proposals concerns the financing of the additional costs entailed in carrying out the liberalized retirement programs to be established for present employees. Under the administration's bill, the civil service retirement fund would pay the normal retirement costs for this program, with the unfunded additional liability to be paid out of general U.S. Government appropriations over a 30-year period, through annual appropriations of \$12.7 million. H.R. 111 would likewise require the civil service retirement fund to pay these benefits. However, it would apparently require the Panama Canal Commission to reimburse the fund for the total cost, thus imposing an additional increase in the toll base at the expense of shippers and consumers.

Surely these matters can be satisfactorily resolved during committee consideration of the implementing legislation. Let me again urge that this should proceed as rapidly as possible.

The U.S. Government has a heavy responsibility for keeping the canal in full operation and doing everything it reasonably can to make the Panama Canal Treaty work. I am confident that Congress and the administration will cooperate to that end.

The CHAIRMAN. Thank you very much, Mr. Ambassador.

In your initial remarks you alluded to financing and cite the differences between the two bills.

What is your position with respect to H.R. 111 as opposed to the administration bill from the standpoint of financing. Do you have a position in favor of one or the other with respect to financing?



Mr. POPPER. Mr. Chairman, naturally we prefer the administration bill which we drafted with due consideration for the interests and elements concerned. It would seem to us to be preferable to follow the lines of H.R. 1716 in this regard.

I should add, if I may, that we are not confrontational on the position as regards the two bills. Clearly there is a great deal in common between the two if you look at them as a whole, and we have concentrated on particular points of difference and have attempted to explain and justify the positions we have taken with respect to those points.

The CHAIRMAN. It is a little unclear as to whether or not you were saying that perhaps the alternative would be recovery through tolls.

Mr. Ford?

Mr. FORD. If the Chairman will yield, this part of your statement gives me a little bit of a problem. What you do is to point out to us the difference. It does not help in terms of what your preference would be.

Did I understand you to suggest with regard to nonconfrontation you have no preference?

Mr. POPPER. No, sir, that was not my intent. I am sorry if that impression was created.

We do prefer our version.

Mr. FORD. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Wilson?

Mr. WILSON. Thank you, Mr. Chairman.

Mr. Popper, on page 3 in reference to article X you state the United States retains broad authority to establish employment labor regulations covering all categories of employees of the Panama Canal Commission.

For how long a period of time is that?

Mr. POPPER. We are talking with respect to the life of the treaty which carries us to the year 2000.

Mr. WILSON. I know there is a lot of concern among the employees there—we have different labor laws between the two countries and legal problems. Our people are fearful before the year 2000 occurs they will lose some of these privileges.

On page 4 you give several examples under article X with regard to guarantees that present employees have. Then you say, "Panamanian employees are to benefit from training programs enabling them to assume positions which become available."

I went over to Colon and was accomplished by a retired colonel of the Army.

Mr. POPPER. I am not sure of his name. I understand it is Col. Bob Clark.

Mr. WILSON. He took me around and showed me the port facility that will be turned over on October 1. He stated that for 1 year, ever since these treaty negotiations became serious, he has been trying to find out when Panamanians would come and learn how to operate that port facility. He says to date not a single person has come over and there seemed to be a lack of interest in learning anything about the properties they will take over.

Is this a true assessment? When are these training programs going into effect?



Mr. POPPER. The training programs referred to in article X are programs which will begin when the treaty goes into effect.

You have highlighted a different but very urgent problem as well, namely, are the Panamanians preparing themselves adequately to assume functions they are supposed to fulfill.

Mr. WILSON. They will take it over on October 1. They should have some training prior to that time, should they not?

Mr. POPPER. One must remember that the ports are being worked not totally by American personnel but also by Panamanian personnel, and the Panamanians have organized what they call an autonomous authority to coordinate their own preparations for taking over the functions which they will assume on October 1 and for carrying out relations with U.S. Government in all aspects of treaty implementation thereafter.

I think they themselves recognize that they are confronted with a serious time problem in getting geared up for what they will have to do.

Mr. WILSON. If they started now wouldn't they be in better shape than if they started on October 1?

Mr. POPPER. As a general principle, yes, I don't know the situation in this case.

Mr. WILSON. It is a beautiful port facility. I hate to imagine what will happen to it after they take it over.

I wonder whether this will be the trend when the transfers take place on October 1.

Mr. POPPER. I hope and believe that is not going to be the case. However, my Department of the Army colleagues this afternoon can give you more particulars with respect to this particular subject.

Mr. WILSON. Do we have some Department of the Army people? Yes; I see we have.

Mr. POPPER. They will be more familiar with this.

Mr. WILSON. Very well.

On page 7 you tell us what the Panamanians have agreed to do to allay suspicions regarding their treatment after everything comes under their jurisdiction.

Do you have confidence that the Panamanian Government will comply with the commitments they have made?

Mr. POPPER. Yes, sir, I do.

One has to bear in mind that, difficult though it is to carry out the conversion which will take place under the new treaty, it is in the interest of Panama, as in our own, that that process take place in an orderly and effective manner. I believe there is every reason to hope that sensible Panamanians—and I think Panamanians are sensible—will understand in their own self-interest that a cooperative and sympathetic approach to these problems will be worthwhile.

I think in general there is that kind of approach among Panamanian officials.

I will not say there are no hotheads or no irresponsibles in a country as large as Panama, but I will say that I think overall the approach on the whole is sensible and accommodating.

Mr. WILSON. That is what one would expect you to say.

Mr. Taylor and Mr. Corcoran and I had the opportunity to visit with some very wealthy Panamanian business people while we were in Panama for our hearings. I was surprised at their attitude.

Here we have the wealthy Panamanians, those who are friends of Torrijos and the Government, who were indicating to us that the United States owes Panama everything. I just wonder about this Panamanian philosophy of milking Uncle Sam to a fare thee well.

It was presented to us in Panama that this implementing legislation is a foregone conclusion and we have no choice. We have to pass it because the treaty is law.

I will not support anything that takes money from the retirement fund or takes any money from the taxpayer.

Mr. POPPER. If I may comment on your interesting statement.

Mr. WILSON. Yes.

Mr. POPPER. First as to the attitude of your wealthy Panamanian acquaintances. I have been a career Foreign Service officer in many parts of the world. There is no doubt that in the world at large there is a view that the developed countries can afford to pay for the process of development in developing countries. Some people feel they should pay for it.

I think that in the case of Panama the situation is much more closely focused. Panamanians with whom I have talked look at it in terms of the use by the United States, since the year 1903, of perhaps their greatest natural resource, valuable real estate cutting across the middle of their country.

Mr. WILSON. They were not even a country then.

Mr. POPPER. Since 1903, sir.

They do have a feeling, I think, that they deserve adequate recompense for that.

In my acquaintance with this subject I find that even opponents of the Panama Canal treaties last year admitted that Panama had made a good case for payments far exceeding those which it had received each year up to that time. How high such payments should be is a question of judgment, but Panama did have a good case, they felt.

In that sense I can see some justification for the thought that perhaps the United States owed them something.

However, as you know, the payments that go to Panama under the new treaty are payments from canal revenues. As to whether the U.S. Government should bear any of the other costs which will be involved in applying the treaty, I can only say that one has to bear in mind the question of the ultimate advantage of the United States. If we think that the treaty settlement and the treaty arrangement are desirable in the overall national interest of the United States, and I think the executive branch of the Government has that point of view, then one has to weigh against that these costs and decide which are determining.

Our primary responsibilities and our primary interest in the Canal Zone go to the maintenance of an open artery for commerce and an area available for the use of our commercial and military shipping. The security of that area is of great interest to the United States.



I think one should look at the expenses which the U.S. Government will incur over the next 20-plus years with that point in mind.

Mr. WILSON. Thank you, Mr. Chairman.

Mr. CHAIRMAN. Thank you, Mr. Wilson.

Mr. Derwinski?

Mr. DERWINSKI. I would like to pick up a point that my dear friend, Mr. Wilson, is making.

Specifically in your prepared text, page 3, you refer to article X of the treaty. You state:

The fundamental decisions regarding personnel policies and practices are a matter for our determination.

Then you add:

At the same time, the treaty provides that our labor regulations should be given in advance to the Republic of Panama.

What is the practical purpose, if there is one, or is this a cosmetic provision?

Mr. POPPER. I was not involved in the negotiations, but my sense of the situation is that, first, the United States wished to retain, as article X does, the basic authority for determining and applying labor regulations, personnel, and employee regulations; and at the same time to indicate that there would be some element of consultation in that regard. I read the provision which you have cited in that light.

The point I wanted to stress was that, generally speaking, subject to some qualification, but generally speaking, this area of treaty implementation is within the authority of the United States.

Mr. DERWINSKI. Now if we may refer to page 9 of your full statement in which you state, as you have repeatedly, that you recommend the administration's bill, specifically the portion dealing with liberalizing retirement programs. You state the civil service retirement fund will pay the normal retirement cost for this program, the unfunded additional liability to be paid out of the general U.S. Government appropriations for a 30-year period, annual appropriations of \$12.7 million.

I take it that is an absolute commitment, then, from the administration that they would make the necessary annual appropriation so that the civil service retirement fund would not suffer as a result of any expenses incurred in liberalized early retirement for Panama Canal employees. Is that correct?

Mr. POPPER. That is the intent of the language: yes, sir.

Mr. DERWINSKI. I am more interested in the intent to appropriate. I understand the language.

My point is that our committee is wrestling with a major attack on the civil service retirement program. It is obvious in maintaining that program we have to maintain its financial stability. Obviously in this case we are assuming that the administration will be providing through annual appropriations all the additional costs imposed on the retirement fund.

Is that the way you read your statement or you interpret it?

Mr. POPPER. Yes, sir.

Mr. DERWINSKI. Even if it does not happen to be your area of expertise.



Mr. POPPER. My problem in discussing this in depth is obviously that I do not have the expertise to deal with figures on employment.

Mr. DERWINSKI. I have one more question.

For the record I would like to indicate that I have asked this question for Mr. Dannemeyer.

He earlier referred to page 15, section 68 of the administration bill.

If the legislation is passed, will title to the property and assets remain in the U.S. Government or, stated another way, do the treaties themselves transfer title to the property and assets?

He refers specifically to page 15 of the bill which provides that the property and assets of the Panama Canal Commission from and after the effective date, except as otherwise provided, the Commission shall assume the liability of the Panama Canal Zone Company. That is the section Mr. Dannemeyer refers to.

The question is this: Have we not, by virtue of the treaty, transferred the title to these properties and assets?

Mr. POPPER. The treaty as we see it is the authority for such transfers of property as are provided for within its terms.

I am not a lawyer. But I would assume that section 68 within section 209 is designed to make it quite clear that the Commission is the successor organization to the Panama Canal Company and the Canal Zone Government with respect to such property as is not transferred to other U.S. Government agencies or to the Republic of Panama. That seems to me to be the meaning of the section referred to.

Mr. DERWINSKI. Are you attempting to explain the entire treaty whereas in fact it would probably take a number of experts to do it?

The Ambassador has to limit himself to general points and we should be advised by appropriate experts in the administration with regard to the details sought in our questions. In that way we are not putting the Ambassador on the spot but we will have other experts in the executive branch come forward.

Mr. POPPER. Thank you very much for that.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mr. Ford?

Mr. FORD. Mr. Ambassador, going back to the reference Mr. Derwinski called to your attention, with respect to whatever arrangements are made for the protection of the employee rights or the labor regulations submitted to the Panamanians, you just make that statement and then leave it.

What does the treaty provide? Do we submit it to them so they know what will happen or do we submit it to them with the right to modify it or the right to veto it? What is the right of the Panamanian Government to intervene in regulations that we promulgate for the protection of the American employee?

Mr. POPPER. The treaty goes only so far as the statement I made. Paragraph 1 of article 10 states:

In exercising its rights and in fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations—and so forth. These regulations shall be provided to the Republic of Panama prior to their entry into force.

That is the end of that particular paragraph. Nothing further is said as to what follows from that.

I am extrapolating from that point.

Mr. FORD. Your statement on page 3 to which Mr. Derwinski called your attention—the fundamental decisions regarding personnel policy and practices, that is to say, are a matter for our determination. At the same time the treaty provides that our labor regulations should be given in advance to the Republic of Panama.

Given to them for what purpose and to what end? Do they have the right to veto our regulations?

Mr. POPPER. Clearly not, Congressman. I think, however, that the effect of a provision of this kind is to get a chance at least to consider their views. That, I assume, is the intent of providing for advance notification.

Mr. FORD. Advance notification they will go into effect and not for consultation or approval?

Mr. POPPER. I think the clear intent of the provision is that having provided those in advance it remains for us to make a decision as to whether we wish or do not wish to persist along the line of regulation.

Mr. DERWINSKI. If you would yield at that point.

It is that very point which prompted me to ask whether there were areas of the treaty where special expertise went into negotiating and that we be apprised by experts as to what is meant.

You have the same concern I have as to why this regulation is provided in advance if there is no practical reason for it. If there is we ought to know.

Mr. POPPER. I would simply suggest that as a pragmatic matter it is useful, in dealing with an enterprise where representatives of two governments are concerned, to inform the other party if there is something you intend to do under your own authority. It can sometimes be helpful.

Mr. FORD. To paraphrase your statement, you expect this committee as the one to which Federal employees most properly look for protection of their interest to reassure them for the purpose of providing continuity of employment and the functioning of the canal that we will legislate in a way that will maintain their status to the extent that is possible. Then you come at us with very typical diplomatic language that we cannot legislate.

Going back to article X you say: "The United States retains broad authority to establish employment and labor regulations."

Does broad authority mean something other than absolute authority?

Mr. POPPER. It means it covers a very wide range of subjects.

Mr. FORD. This statement applies only to categories of employees of the Panama Canal Commission. Can we write legislation directing or authorizing the President to impose regulations that are absolute with respect to the right of the employees of this commission at least for 20 years? When you use the word "broad" is that a term to mean "kind of generally we can do it but not necessarily"?

Mr. POPPER. I understand the thrust of your question.

There is some element of both meanings in the word. It covers a wide range of subjects.



Also I think that what the United States would do in this as in other areas is subject to the precise terms of the treaty. The treaty gives us authority. In various aspects it limits American authority. We have agreed to certain limits.

Mr. FORD. Would you be willing to follow that up for the benefit of those of us who are not all that familiar with either the treaty or, as Mr. Derwinski puts it, the nuances of diplomatic language, and give us a check list of the things we can and cannot do in your view within the clear and explicit terms of the treaty?

Mr. POPPER. If I might submit a statement for the record.

Mr. FORD. Yes.

The CHAIRMAN. Without objection, it is so ordered.

[See p. 214.]

Mr. FORD. This is another problem we have some difficulty with, as Mr. Derwinski pointed out. This committee is very much concerned with the total assault on the employee retirement system and the very heavy pressure to economize and tighten them up, and so on.

Yet we have the same administration telling us we should do this now telling us we should appropriate for advance retirement \$12.7 million for 30 years. That is \$381 million according to my mathematics.

If in fact, as your general statement suggests, it is our objective to protect the interest of the employees, who is going to be young enough not to be retired by the year 2000? Won't they all retire in normal fashion if we protect their rights and they continue to work? Where did we get the idea it would take \$12.7 million of additional unfunded liability in the retirement system per year and anticipate all this early retirement?

Mr. POPPER. The authority for this statement is the Office of Personnel Management. I believe the Director will testify here a little later on. I am sure he can give you a fuller account of the rationale underlying the figure.

Mr. FORD. In any event, the thrust of your statement mentions this responsibility several times. Then on page 5 you state:

This is provided there should be appropriate optional retirement programs for present employees of the Panama Canal Company and the Canal Zone Government.

It is interesting to me that the treaties specifically talked about providing optional retirement benefits.

Then you say:

Such arrangements will be offered to personnel involuntarily separated or as an inducement to present employees to continue on the job.

I didn't think we were going to involuntarily separate anybody as a result of the treaties.

How much of the \$12.7 million per year is for involuntary separations and what does that mean?

Obviously if we are separating somebody because they are incompetent or undesirable for other reasons, we will not give them early retirement. You suggest we should reimburse involuntarily separated employees with early retirement.

How do we normally involuntarily separate somebody?

When we discontinue or RIF that suggests the antithesis of what you have been saying.



Is there a substantial RIF of American employees contemplated in these figures?

Mr. POPPER. It is contemplated there would be some.

In the succeeding paragraph of my statement you will find some indication of the numbers involved in various categories.

Mr. FORD. Is there a place we can look to determine whether 12.7 is enough or not enough?

It appears in your statement as though we made a deal to accelerate replacement of American employees with Panamanians by asking them to voluntarily leave and holding out inducement of early retirement, and then involuntarily separating them and then giving them this payoff because we did it involuntarily.

Do we have an underlying agreement we will start accelerating the replacement of the American employees by Panamanians in some fashion? If not, why do we have to pay for involuntarily separating employees?

Mr. POPPER. I think the intent is to protect those who may find themselves involuntarily separated at the outset because of the decrease in the size of the Commission work force under the new treaty.

My colleagues from the Department of the Army can give you further details as to how that would operate but there will be some who will be involuntarily separated.

For others, as stated here, the intent is to encourage current employees remaining to perform the functions that the Commission has to perform, to stay on and remain with the job so as to provide the greatest possible amount of continuity.

Mr. FORD. I am having some difficulty with this language: "or as an inducement to present employees to continue on the job."

How is early retirement an inducement for present employees to stay on the job?

Mr. POPPER. Preferential retirement arrangements, more accurately speaking, are an inducement for people to stay on the job. The legislation would provide for preferential arrangements in the form of a somewhat larger annuity.

Mr. FORD. Then in addition to paying people for early retirement if they stay the full course as fully protected employees until retirement we will give them a bonus for staying.

Mr. POPPER. Yes; there is a provision, if I am not mistaken, for a 2½ percent a year payment for those who stay. I would prefer—

Mr. FORD. That is better than the cost-of-living increase in the pension.

Mr. POPPER. I would prefer not to get too deeply into this when there are experts who can speak more convincingly.

Mr. FORD. Someone in your shop prepared the statements together with you. They must have had some idea as to what they were talking about.

On behalf of the committee I will ask you to submit a memo to explain the two parts of that sentence. What kind of involuntary separation are we talking about and what magnitude, and how does the proposed plan provide an inducement for present employees to continue if what we are talking about is early retirement?

The CHAIRMAN. Without objection, it is so ordered that that information be included in the record.

[See p. 214.]

Mr. FORD. One final question, unrelated to my previous questions.

On page 7, second paragraph, you state:

"First Panama has agreed as a matter of general policy to waive jurisdiction in favor of the United States at our request in cases against American employees." What kind of cases against American employees?

You refer in the second proviso about guaranteeing certain rights for somebody who may face charges by Panamanian authorities which presumably means criminal charges.

Mr. POPPER. Yes.

Mr. FORD. What kind of cases are you referring to in the second paragraph, that as a matter of general policy will be waived with respect to jurisdiction in favor of the United States?

You specify cases involving U.S. citizens but how about cases against U.S. citizens?

You talk in another section about criminal proceedings brought by Panamanians. What kinds of cases against the United States are they going to waive to us?

Mr. POPPER. What I said is a summary of some of the points made in article 19 of the agreement in implementation of article III of the Canal Treaty. We are talking there about criminal jurisdiction.

Mr. FORD. In both instances?

Mr. POPPER. Yes.

Mr. FORD. When you say "at our request" is that on an ad hoc basis? If it is a minor crime we might ask them to waive; if it is a major crime we might not?

We do not do that in our status-of-forces agreement with foreign countries, do we, where we have American personnel involved? Don't we really nail down the circumstances under which local criminal jurisdiction will apply to our military, for example, in most of our status-of-forces agreements around the world?

Mr. POPPER. I believe you are quite correct. This situation is in some respects a bit different perhaps.

Mr. FORD. What we are trying to do here is to negotiate something comparable to a status-of-forces agreement covering the rights and immunities, if any, for American citizens once Panamanian control takes over? Does this mean we would systematically waive certain kinds of cases against our employees or that when someone finds himself being proceeded against by a Panamanian he would have his family run to the consul and ask whether we would ask for a waiver?

Mr. POPPER. There is one distinction. There is an agreement in implementation of article III of the Canal Treaty involving the Commission and its employees, and another agreement in implementation of article IV of that treaty, for the defense forces at the canal and employees of the defense forces. The criminal jurisdiction provisions are separately stated for both of them, and differently stated. The agreement referring to the defense forces is more closely akin to the status-of-forces agreement than the other.

That dealing with employees of the Commission does have qualified language which appears in paragraph 2 of article 19 of the agreement in implementation of article III.

Mr. FORD. Under the present circumstances if an employee, let's say an American employee working for a Panamanian foreman, punches him in the nose after slight disagreement over something on the job, aside from their relationship as management and employee there may be civil damages sought by one or the other. That presently would go into the Federal courts, would it not, into our Federal courts? Are we changing that status with respect to the employee?

When you talk about cases I am wondering whether it goes beyond simply some sort of understanding of due process and fair play in criminal matters and whether or not you also contemplate that the present status of American citizens in that very unusual situation we have had down there changes with respect to the power of the courts to deal with them in civil matters.

Mr. POPPER. I should not like to be too precise on this point without researching it further. There is a sharp distinction, as you indicate, between criminal jurisdiction and civil jurisdiction. There is also a distinction between the situation during the transition period of 2½ years and thereafter.

I will be very glad if you wish, sir, to describe succinctly what will happen in both cases for the record.

Mr. FORD. I would appreciate it if you would.

The CHAIRMAN. Without objection, it is so ordered.

[The following letter was received for inclusion in the record:]

DEPARTMENT OF STATE,  
Washington, D.C., April 13, 1979.

HON. JAMES M. HANLEY,  
*Chairman, Committee on the Post Office and Civil Service, House of Representatives.*

DEAR MR. CHAIRMAN: I have your letter of April 5 to Ambassador David H. Popper, the Special Representative of the Secretary of State for Panama Treaty Affairs, in which you requested that he provide answers to questions concerning H.R. 1716, the Administration's bill to implement the Panama Canal Treaties of 1977.

I am enclosing the requested answers.

Sincerely,

DOUGLAS J. BENNET, Jr.,  
*Assistant Secretary for  
Congressional Relations.*

*Question.* Please provide a check list of the things the United States can and cannot do with regard to legislating labor laws for the Canal Zone employees "within the clear and explicit terms of the Treaty".

*Answer.* Under Article X of the Panama Canal Treaty the United States has sole responsibility for labor relations within the new Commission. The only restriction on this authority is that the regulations and policies of the Panama Canal Commission must conform to the general principles contained in the Treaty: These principles are:

Preference in hiring for Panamanian applicants possessing the necessary skills and qualifications;

Efforts to comply with Panamanian labor law regarding the proportion of employees established for foreign enterprises, that is 85 percent Panamanian employment where technical skills are required, and 90 percent Panamanian employment in non-technical classifications;

Increased training for Panamanian employees;



Qualification standards which will recognize professional licenses issued by the Republic of Panama but allowing the United States to require additional professional skills and qualifications;

A policy of rotation, at a maximum of five years, for United States citizens and other non-Panamanian employees hired after the Treaty enters into force (with certain exceptions for employees holding positions requiring certain non-transferable or nonrecruitable skills);

Nondiscrimination in wages and fringe benefits on the basis of nationality, sex or race (although additional remuneration based on recruitment from outside Panama is permitted); employee rights to negotiate collective contracts and affiliate with international labor organizations; and

Provision by the U.S. Government for a liberal early retirement program extending over most or all of the Treaty's life.

The general principles outlined above have been agreed to by both governments. Implementation of such programs or policies is the responsibility of the Commission. When the Commission has drafted its regulations they will be provided to Panama as a matter of information. Provision of such information does not imply that Panama may exercise any veto power over the policies and rules promulgated by the Commission respecting labor matters.

*Question.* Please provide a memorandum explaining what kind and what magnitude of involuntary separation of U.S. employees is contemplated by the Treaty, explaining the Administration's proposed inducements (early retirement) to present employees to continue in their work.

*Answer:* Of the 14,100 employees currently employed by the Panama Canal Company/Canal Zone Government, a total of 5,776 will lose their jobs as a result of the Treaty. However, 3,229 of these employees will be transferred to Department of Defense activities (1,105 U.S. citizen and 2,124 non-U.S. citizen). The remaining employees (260 U.S. and 2,287 non-U.S.) will be separated from employment by a reduction in force. The reduction in force actions will be partially offset by an estimated 1,500 retirements occurring at the same time. Additionally, it is expected that the Government of Panama will offer employment to significant numbers of Panama Canal Company employees who now hold jobs in functions to be assumed by Panama, such as ports, railroad, and marine bunkering operations. The remaining separated employees will receive special placement assistance from US Government agencies as well as the Government of the Republic of Panama. Most separated employees will also receive severance pay and early retirement benefits.

Under Paragraph 10 of Article X of the Treaty: "The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty."

Accordingly, special provisions have been made in both H.R. 1716 and H.R. 111 which would increase an employee's annuity to 2½ percent of average salary for every year of service after the Treaty enters into force. This is intended to serve as an incentive for individuals to remain with the Canal enterprise during the crucial transition period. While the Treaty fundamentally changes the nature of our relationship with Panama, there would still be some opportunities for career advancement with the new Panama Canal Commission throughout the life of the Treaty.

Law enforcement officers and firefighters will be eligible for the special retirement computation for such officers in the Federal service for up to 20 years if they separate after age 48 with at least 18 years of service. Additionally, if they continue to serve in Panama without a break in service after October 1, 1979, their annuities will be increased by \$8 for each full month of service after that date until they have completed a total of 20 years of law enforcement or firefighter service.

*Question.* Please provide a description of the criminal and civil jurisdiction over U.S. employees contemplated by the Treaty during the two and a half year transition period and thereafter.

*Answer.*

#### *During the transition period*

Article XI of the Panama Canal Treaty establishes the special jurisdictional arrangements that will be in effect for the first thirty months of the Treaty, the transition period, which enters into force on October 1, 1979. During the period the criminal laws of the United States will apply concurrently with the laws of Panama in the Canal operating areas, the housing areas, the defense sites and military areas of coordination, and within the ports of Balboa and Cristobal.

Within such areas and installations the United States will have the primary right to exercise criminal jurisdiction over all United States citizen employees, members of our armed forces, the civilian component, and their dependents concerning any

offense committed by them. In addition, the United States may exercise jurisdiction over pending criminal cases related to offenses which occurred prior to the entry into force of the Treaty.

During this period, the United States is authorized to maintain a police force in the above areas, to establish a system of joint police patrols, to maintain a court system and to incarcerate persons within the US operating areas or to transfer them to the United States.

U.S. courts will retain jurisdiction to dispose of any civil cases pending at the time of entry into force of the Treaty, but the US will not have jurisdiction over new civil cases after that date.

*During the life of the treaty*

Article IXI of the Agreement in Implementation of Article III of the Panama Canal Treaty provides that Panama shall exercise jurisdiction over United States citizen employees and dependents with respect to all offenses arising from acts or omissions committed by them within the territory of Panama and punishable under that country's law.

However, jurisdiction over offenses that are committed by US citizen employees or dependents that are punishable under the laws of both countries may be waived by Panama upon the request of US authorities in favor of the US authorities. Panama shall give favorable consideration to such requests in the following cases:

(1) If the offense arises out of an act or omission done in the performance of official duty; or

(2) If the offense is solely against the property or security of the United States and is committed in a Canal operating area or in a housing area.

In addition to this provision, the Agreed Minute to the Agreement in Implementation of Article III states the understanding of both parties that "as a matter of general policy, Panama will waive jurisdiction" in cases in which US citizen employees and dependents commit offenses punishable under the laws of both countries. In any case in which the Panamanian authorities waive jurisdiction to the United States, or in cases in which the offense constitutes a crime under U.S. laws but not the laws of Panama, the accused person shall be tried outside of the territory of the Republic of Panama.

Procedural guarantees for accused persons similar to those existing in the United States are detailed in Article XIX(4) of the Agreement in Implementation of Article III of the Treaty and in Annex C of that Agreement.

The CHAIRMAN. Mrs. Schroeder?

Mrs. SCHROEDER. Again many questions I had have been answered, but let me ask just a couple.

On page 4 you say that the treaty will protect present employees who are to retain the terms and conditions of their employment

I think you heard the testimony of Congressman Murphy suggests that he felt the treaty would also protect future employees, including Panamanian employees, so they would not be employed at wages below those of the people working there now.

Do you agree with his interpretation of the treaty? You did not put that in your list and I wondered whether your interpretation was the same as Mr. Murphy's.

I ask that questions for a reason: We have many people fearful that the Commission will hire Panamanians at lesser working conditions than the people who are currently working there.

Mr. POPPER. I understand the question.

I should say that the subject of wage policies is one in which we have not yet reached a full determination. Obviously the provisions against discrimination which are in the treaty will govern. Obviously the protection of present employees, as stated in the treaty, will prevail.

Whether there can be any distinction with respect to past and future employees is a difficult problem. It is clear there will be certain additional remuneration for present employees and those hired from outside Panama. The question which I think we are not



yet in a position to answer is what precisely will be the wage policy for future employees hired within the territory of Panama.

Mrs. SCHROEDER. We have great difficulty with that answer. As you know, this committee will deal with the provisions of labor-management relations for the Commission between now and the year 2000. Any further guidance you might give us that will be important.

We heard many different forms of testimony as to whether new employees should be under Panamanian labor law, or whether they should be under title VII until the year 2000.

I think that is an important issue.

I have not found a clear-cut answer such as Congressman Murphy thought he found. If it were there I would not be so worried about dealing with this section in this legislation.

Mr. POPPER. I would agree that it is not that clear cut. I would suggest you might want to raise the question with my Department of the Army colleague because he is knowledgeable in this area.

Mrs. SCHROEDER. Second, do you have any data as to how many Panamanians who are currently working for the Government will probably apply to immigrate, and will the State Department be helping them to find jobs?

Mr. POPPER. It is difficult to say how many will do so.

There is a group of Panamanian nationals who are largely descendants of people of West Indian origin who worked in constructing the canal. These descendants have stayed on for many years, have not been assimilated in Panamanian society, and would be better assimilated into American society.

The import of the legislation with respect to special immigration is designed to assist such people to immigrate to the United States should they feel that for cultural, social, and other reasons that would be desirable.

I could not say, and I have not seen any estimates, as to what the volume of such immigration might be. I know of no provision yet undertaken to assure that people who do come under those provisions would require or receive any special job assistance. I know of no such plan to this point.

Mrs. SCHROEDER. They will get green cards automatically; is that correct?

Mr. POPPER. If permitted as special immigrants they would. That is my understanding.

Mrs. SCHROEDER. Did you do any poll of the American employees of the Canal Zone before you made the provision with regard to early retirement? Do you have any statistics to prove that that really will be the thing that will make them stay?

Mr. POPPER. I would appreciate your asking my Department of the Army colleague who is closer to this subject than I am.

Mrs. SCHROEDER. You are not aware of anything the State Department did?

Mr. POPPER. No.

Mrs. SCHROEDER. When we were in Panama we had some witnesses suggest that we should create an office of ombudsman to oversee and represent the views of Americans in Panama to the President and Congress.



How would you feel about this and what would be the position of the State Department regarding this proposal?

Mr. POPPER. The administration has not taken a position on this matter. I think a great deal would depend on what the terms of reference for the office were, its powers and so on.

In principle, speaking personally, it might be a reassuring move. However, I would like to reserve a definitive opinion for the time being.

Mrs. SCHROEDER. There are also people saying that if this bill does not get passed there will be chaos in Panama and perhaps the Panamanians will ask to renegotiate the treaty.

Do you think the treaty renegotiation request might be possible?

Mr. POPPER. Frankly, I would find it very difficult to conceive at this stage of anybody, on the Panamanian side or our side, requesting renegotiation. You have a situation approaching to which we must adapt and for which we must prepare. I would rather spend our efforts in preparing as well as possible for that date, October 1, and doing what we need to do as of that time or as soon as possible. I do not think treaty renegotiation is a realistic alternative.

Mrs. SCHROEDER. Thank you very much.

The Armed Services Committee needs me for a vote so I have to leave. If I have questions of other witnesses may I leave them for the record?

The CHAIRMAN. By all means.

Thank you.

Mrs. Spellman?

Mrs. SPELLMAN. I, too, have had most of my questions answered. I have just a couple I would like to pursue.

You say on page 3 that over 70 percent of the present Canal Company employees are Panamanian. We are giving early retirement to them, too?

Mr. POPPER. Yes, they can benefit from early retirement provisions.

As I recall the legislation it speaks of "persons."

Mrs. SPELLMAN. Why would we be giving early retirement to people who no doubt will be staying on, or can stay on?

Am I misrepresenting that they can stay if they would like to?

Mr. POPPER. I think this depends on what happens to the activities in which they are engaged. For those activities which are transferred to the Government of Panama they will, of course, under the treaty, to the maximum extent feasible, continue to work for the Government of Panama in those activities. However, there might be some net loss in some way or requirement for involuntary retirement.

Again I would ask you ask that question of my more knowledgeable colleague.

Mrs. SPELLMAN. Perhaps I should save the next question as well for them. It is a little on the technical side.

Thank you, Mr. Chairman.

Mr. WILSON. During our hearings in Panama, Mr. Popper, a Captain Mueller, of the pilots, indicated that the pilots were promised special benefits by the President in order to gain their support for the treaty.

Are you acquainted with any special benefits given to them for this tradeoff?

Mr. POPPER. I am not myself aware of any assurances given to pilots. This is in the treaty and elsewhere reference to people with extraordinary skills difficult to replace but I am not aware of any specific assurance given to pilots.

Perhaps my colleagues later on will have more information about that but I have not heard of it.

Mr. WILSON. Thank you.

The CHAIRMAN. Mr. Derwinski?

Mr. DERWINSKI. Page 4 of your prepared statement states, third paragraph:

Panamanians are to have preference in hiring provided they possess the necessary qualifications.

Then you go on to state:

[that] discrimination on the basis of nationality, sex, or race as regards wages and fringe benefits is banned, [although] certain inducements for currently employed U.S. nationals and for persons who will be recruited from outside of Panama will be permitted.

I have read that twice. I see there is no discrimination but three major exceptions. One is Panamanians have preference if they are skilled.

Second, there will be some special inducements for U.S. nationals and other people outside the Canal Zone, presumably to bring in skilled people.

Then last, but not least, there is the retention of rights by holdover employees to induce them to stay.

Can you sort that inconsistent description out for me or should I refer that to the Department as well?

Mr. POPPER. I will try.

The overall intent with respect to Panamanian employees of the canal enterprise is to increase the numbers over time in such a way that in the year 2000 there may be a transition to an all-Panamanian enterprise subject to whatever exceptions the Panamanians themselves may at that time feel they might want to apply.

To do that, obviously training programs are required and a policy of gradually increasing the number of Panamanians in positions under the Commission must be adopted.

The problem arises, as you indicate, in determining to what extent preference should be given to Panamanian trainees and others to take on new positions as they become open and available. That problem will be worked out, I am sure, administratively within a range of equal maintaining.

There are, as you say, provisions for maintaining skilled personnel and for retention of those now on the rolls. However, there will have to be an administrative determination of precisely how these different objectives are phased in together. They are all important.

Mr. DERWINSKI. Thank you, Mr. Chairman.

Mr. FORD. I was looking ahead at Chairman Campbell's testimony in which he outlines for us the history of the situation which existed when we had a dual pay system and the Panamanians paid in silver while the Americans paid in gold, which had a different



level of pay. Sometime back in the 1950's we entered into a treaty with the Panamanians and agreed we would stop that.

What you are talking about here is a nondiscrimination provision, carrying on the present status of saying that there would not be any discrimination with respect to pay and fringe benefits, but you limit it to that, as the gentleman from Illinois pointed out.

Panamanians are to have preference in hiring provided they possess the necessary qualifications.

Is it only hiring or also promotion?

Mr. POPPER. I can't answer that question precisely. I do not know the answer.

Mr. FORD. Is Mr. Derwinski sort of coming to asking where you will get the nonvoluntary retiring employees? You have people working side by side. A new job opens up. One gets the job because he is a Panamanian with equal experience. The American employee says, "The hell with that. I will retire." Is that not where you will get the nonvoluntary or voluntary early retirement? How absolute is this job preference?

You mention preference in hiring. Invariably when you talk about this type of action it is preference in promotion.

Mr. POPPER. I am sure all the problems with respect to affirmative action are predictable to some degree. In this situation I would not want to make a precise statement.

Mr. FORD. The only parallel we have is the Indian preference rights with respect to programs under Interior where if two people equally qualified apply for the job there is a mandate that you must hire the Indian. If there are 20 non-Indians and only 1 Indian, and the Indian is 20th on the list but meets the minimum requirements, the Indian must be hired.

There was a definite purpose involved in doing that. It is a continuing policy.

Is the kind of preference we are talking about here the same kind of preference we have with regard to the Indians?

Mr. POPPER. It is my understanding there is something of that element. There may be a number of people qualified for the job. In the framework of the general policy of increasing the number of Panamanians employed by the Commission this would enter into it.

I would ask you to repeat the question to my Army Department colleagues for further elaboration.

Mr. FORD. You have no idea as to who sat down and computed how you arrived at this \$12.7 million? It must be made up of several kinds of circumstances which would cause people to act in a predictable way.

It seems to me that if you are really talking about hiring preferences here as an absolute, that is one of the ways you will generate the early out.

When I asked you about it earlier you said you did not know how this \$12.7 million was computed. Who put together the data on which the estimate was made?

The gentlelady from Colorado asked you the same question. Did you take a poll? Did you ask the employees: "Given the following circumstances what are you likely to do?" Did somebody pick figures out of the air? If so, does someone have a breakdown some-



where backing up your statement asserting to us that what we have before us is the question of the manner in which we reimburse a \$12.7 million unfunded liability to the retirement system?

We are prepared to deal with that on a policy basis. However, both bills are predicated upon the figures used in your statement of a \$12.7 million annual cost during the 20-year transition period.

Who developed that cost and what is the basis for it? How do we know, first of all, that it is based on any reasonably expected experience with these employees, particularly when you recognize that 70 percent are Panamanians to begin with?

Mr. POPPER. I understand the question. I am not able to give you a precise answer. We will attempt to furnish for the committee what we can.

The Department of State did not take the lead in dealing with personnel questions. We are necessarily dependent upon others in the administration for the detailed work in that field.

Mr. FORD. I hope you realize the bind we are in. We understand where Chairman Campbell comes from because he works within the framework of the treaties as interpreted to him and he recommends what has to be done.

We may not agree with him as to the specifics on how those are accomplished, but those are policy decisions we are capable of making on this committee.

However, we are not capable of interpreting these vagaries described today in the treaty. We don't know how far we can go or how far we should go or how we can go to the floor and answer the question I just asked you.

It will be asked—how do you know it will be only \$12.7? How do you know it will not be \$30 or \$40 million?

We have nothing on the basis of your statement except the fair assertion stating that the Ambassador said the administration estimates that is what it will be. We have to be more specific and show them the basis for our assertion to them, that is, that the general fund of the U.S. Treasury should come up with \$12.7 million a year or an estimated \$12.7 million because presumably, if the unfunded liability goes above that within the year, we would be expected to appropriate even more.

Mr. POPPER. I understand your point. We will see what we can do.

Mr. FORD. Thank you.

The CHAIRMAN. Thank you, Mr. Ford.

Mr. Albosta?

Mr. ALBOSTA. On page 5 of your statement you say:

The implementing legislation applies these general provisions to the canal work force. Approximately 60 percent of the employees—some 8,000 Americans and Panamanians—can continue in their present jobs under the Panama Canal Commission, unless they choose immediate retirement, or resign.

My question is, How many canal employees would be eligible for early retirement or would be in a position to resign?

Mr. POPPER. We would have to get that breakdown from the Canal Company. Perhaps the Department of the Army representative can answer that. I cannot today.

Mr. ALBOSTA. You made a statement to Mr. Wilson that it would be your position or that of the State Department that the Ameri-

cans owe the Panamanians something for the use of the Panama Canal for the services we gain for passing through the Panama Canal. Is that your individual position or the position of the State Department?

Mr. POPPER. I am enunciating what I think is the general approach of the Department and the administration toward the canal treaty settlement generally, that the equality of it resides in part in that particular sort of approach.

Mr. ALBOSTA. Has anyone in the last 30 years subsidized the Panama Canal besides the United States?

Mr. POPPER. We have operated the canal. I am not aware that any other government has participated in supporting it. It is run by and large on a self-sustaining basis although the infrastructure and the overhead is something we put in.

Mr. ALBOSTA. Didn't the Russians use it, and the Japanese, and do not numerous countries use it at the low rate, the 90 cents per ton rate, or whatever the rate is which had not been changed in 30 years?

Mr. POPPER. Ships of all countries under treaty commitments can use it, as you know, on nondiscriminatory terms, and have done so. We have kept the rates low as a matter of policy because we considered the canal to be a great international public utility which ought to serve on a self-sustaining but not a profit-making basis. That has been a constant point of national policy to my knowledge since the beginning.

Mr. ALBOSTA. I really don't know how much in terms of dollars we might have subsidized the Panama Canal but I would be willing to gamble we have subsidized it to a considerable extent.

On page 9 of your statement you refer to H.R. 111. You say it would likewise require the civil service retirement fund to pay these benefits. You are talking about the \$12.7 million per year.

Then you also state: "However, it would apparently require the Panama Canal Commission to reimburse the fund for the total cost."

Does not the treaty state more than apparently?

Mr. POPPER. The language appears to be a little bit elliptical. I think it does.

I guess the analysis provided with the bill makes that fairly clear. I was not entirely sure precisely how far it goes. I thought it better to put that term in.

Mr. ALBOSTA. Can you give the committee a better analogy of that particular section?

Mr. POPPER. Could I enlarge on it?

Mr. ALBOSTA. How about a yes or no. Either the Commission is required to reimburse the funds we put out, the \$12.7 million, or not. I would have trouble voting for this where there is a statement within the treaty which would say "apparently".

Mr. POPPER. We are talking about H.R. 111. We are not talking about the treaty.

Mr. ALBOSTA. We are talking about the bill, H.R. 111.

Mr. POPPER. What I am trying to do is to give my best evaluation of what that says. If I am not precise enough because I use the word "apparently" I will be glad to reconsider.



I think that is the intent of H.R. 111. I was not quite certain when I read the words. I think that is the intent of that bill.

Mr. ALBOSTA. Can you give us a clear interpretation of the section you refer to in the bill as it is now written?

Mr. POPPER. I would be glad to go back to the language of the bill and language of the analysis and repeat those but I would not want to go beyond that.

I am not quite clear what your purpose is.

Mr. ALBOSTA. Would the rates be such that they would reimburse the United States for the \$12.7 million yearly?

Mr. POPPER. Yes; as we read the terms of the legislation the Panama Canal Commission would be required to reimburse the fund. That would be done presumably by an additional increase in the toll base.

Mr. ALBOSTA. If there were 8,000 employees there who would benefit from the \$12.7 million, my simple arithmetic tells me that if we retire every one of them with \$16,000 a year we would end up with \$12.8 million a year. That is to retire all 8,000 of them. I question how you came up with the \$12.7 million.

Mr. POPPER. As I said to the Congressman, we will do our best to enlighten the committee on that point.

The CHAIRMAN. Thank you, Mr. Albosta.

Mr. Harris?

Mr. HARRIS. No questions.

The CHAIRMAN. Mr. Ambassador, in behalf of the committee, thank you very much for your appearance and your input.

Our next witness is the Honorable Alan K. Campbell, Director, Office of Personnel Management.

Mr. WILSON. Mr. Chairman, before Mr. Campbell starts, I thought Mrs. Spellman was going to suggest that he be put over to another time.

The CHAIRMAN. If the gentleman would yield, I would like to recognize the gentlelady from Maryland.

Mrs. SPELLMAN. The chairman suggested we allow Mr. Campbell to give his testimony and then ask the questions.

Mr. WILSON. I want to cooperate with the Chair, but I want to be sure that Mr. Campbell will cooperate with the committee before I agree to anything further.

If he is unwilling to provide the assumptions or the methods by which his people arrived at their figures, then I might object on Wednesday if there is not a quorum.

Mrs. SPELLMAN. If the gentleman would yield, as long as Mr. Wilson has raised the question we might as well go right ahead and ask the question if the chairman will allow it.

The CHAIRMAN. I will be delighted to yield to the gentlelady from Maryland.

Mrs. SPELLMAN. There were questions we had about figures which were presented to us the other day by OPM. We were quite concerned we were not getting very good information.

Our staff had put together some figures given to us by OPM which had no relationship to those we had.

We then thought we would like to have before us the backup on just how the figures you are presenting here today were arrived at so we could have the staff evaluate them. That is the reason we



always ask for the testimony in advance, so that the staff can go through and check on materials that are of special interest and value to us.

Because we do not have enough staff to go into that, we asked the GAO to look into the matter for us. Of course, they are the investigative arm of the Congress.

When Mr. Shelton went to talk with your staff he was told that he could not have that information, despite the fact he did say it was for this committee.

It is not secret information. It is not information being kept secret until it comes before us here today because this is testimony that already has been presented to another committee.

All we are asking for is the backup information.

It does seem that since we are supposed to be working together, and since the GAO is our investigative arm, that the information they are asking for, unless there is good reason for them not to have it, should be made available.

We did want to ask you about that because as we go through this information you are giving us today it would have been most helpful to have been able to analyze it in advance.

I turn that over to you, Mr. Campbell.

Mr. CAMPBELL. First, as to the GAO requesting information and not receiving it, we heard about that indirectly. GAO has no complaint.

I checked with Mr. Staats. He said as far as he is concerned we were absolutely cooperative in responding to their requests for information.

Second, we were in the midst of calculating the costs of the early retirements, based on estimates as to how many employees would use the various early retirement system. The estimates were done by the Army, which knows who the employees are.

On the basis of that information, we then calculated what the retirement costs would be under both static and dynamic assumptions. That calculation based on static assumptions is presented to you today in my testimony.

I have the dynamic assumption data with me and would be happy to provide them to the committee.

I would say further that we are still making an analysis as to the detailed makeup of the work force that will be affected by these early retirement provisions on how in terms of age, years of service, and, of course, predictions on how many might be taking advantage of the early retirement. That is a matter of guessing. I do not think one will learn it by asking the people there because on the of the reasons for providing the early retirement option, and continuing it for some time, is for the employees to know that they have that protection, thereby encouraging them to stay.

We were concerned that, if you put a deadline on retirement, employees will take it and in that way feel they were protecting themselves from possible changes which would come in Panama as the treaty gradually comes into effect.

So, any estimates as to the number of people who will use the early retirements are very speculative, and it is my own judgment that we are overestimating the costs and the numbers, based upon

the discussions in which I was involved at the time, with the leaders of the employees there.

What they really wanted was protection, to know that if matters got in their eyes bad, they would have a way out, and for that reason we put in an early retirement system which would be continuous rather than one in which people would have to take their options early.

Mrs. SPELLMAN. Can you give us the name of the actuary who helped you develop the cost figures?

Mr. CAMPBELL. I will ask Mr. Tinsley.

Mr. TINSLEY. I don't know the name of the specific actuary. We will be glad to get it for you.

The chief actuary of the Commission is responsible for all actuarial work and it is he we rely on.

I don't know that there is any secret, nor has there ever been, about the basic actuarial assumptions he used in any of his work. Certainly I don't know that we ever denied access to that information to anyone, certainly not a congressional committee or the General Accounting Office.

Mrs. SPELLMAN. I can only say that as of this morning Mr. Shelton was saying he is still unable to get information from your agency.

Mr. CAMPBELL. I am not sure who Mr. Shelton is.

Mrs. SPELLMAN. Apparently the man assigned to represent this committee in the GAO.

Mr. CAMPBELL. He works for GAO?

Mrs. SPELLMAN. Right.

The CHAIRMAN. Does the gentlelady intend to offer the motion discussed earlier?

Mrs. SPELLMAN. I would leave it to the committee as to whether we want to hear this testimony before we have a chance to evaluate it or whether you prefer to postpone the hearing until we get the information.

The CHAIRMAN. Mr. Wilson had a reservation.

Mr. Wilson?

Mr. WILSON. I am not satisfied with what Mr. Campbell has told us. Mr. Staats would not personally handle this type of thing.

The staff representative assigned to this, Mr. Shelton, attempted to get the information as late as this morning and was still denied the figures.

Mrs. Spellman's staff director has gone through your testimony, and your assumptions you use in arriving at your figures are not included in your statement. I don't know how in the world you can have any figures that would mean anything at this point.

Mr. FORD. With all due respect to my colleagues on the committee, and I share Mrs. Spellman's concern for the way this has been handled up until now, we are engaged in a little bit of anticipatory repudiation, as lawyers say. We are disputing the statement before it is on the record.

We should first give him a trial before we hang him.

I feel when we have had the Director tied up here all afternoon, presumably with that legislation we passed last year he has plenty of things to do and we ought to proceed and let him give his testimony and then pick it apart after he has given it. Then if we



want additional information be specific as to what we want from him.

I would hope we could get on with the Director's testimony. The CHAIRMAN. I thank the gentleman for his statement.

It was the intention of the Chair at the outset to recognize the witness for the purpose of presenting his testimony and subsequently, if a member of the committee had a complaint, that person would have been recognized for the purpose of rendering the complaint.

Mr. DERWINSKI. It could be that Mr. Campbell's statement will be so devastating that we will just sit here in absolute silence after he finishes.

The CHAIRMAN. The Chair recognizes Mr. Campbell for the purpose of delivering his testimony.

**STATEMENT OF HON. ALAN K. CAMPBELL, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ACCOMPANIED BY THOMAS A. TINSLEY, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE AND OCCUPATIONAL HEALTH, AND ANTHONY INGRASSIA, DIRECTOR, LABOR-MANAGEMENT RELATIONS**

Mr. CAMPBELL. Mr. Chairman and members of the committee, I am happy to be here today to testify for the Office of Personnel Management on this very significant legislation. The Panama Canal Treaty of 1977 and related agreements, were signed by representatives of the United States and Panama on September 7, 1977, subject to ratification by both governments. The treaty has been approved and the effective date for the exchange of instruments of ratification will be April 1, 1979. Six months later, on October 1, 1979, the treaty will enter into force and remain in effect through December 31, 1999. Beginning October 1, 1979, the United States will carry out its responsibilities in Panama through a United States Government agency called the Panama Canal Commission. The Panama Canal Commission will replace the Panama Canal Company and the Canal Zone Government both of which will cease to exist at that time.

Under the treaty many of the activities presently performed by the United States will be transferred to the Republic of Panama and many present Federal employees will lose their Federal jobs. The Republic of Panama will undoubtedly employ some of these individuals to continue with the transferred activities, especially those who are citizens of Panama.

The treaty will bring about a major transition. The United States will relinquish jurisdiction in a zone within a foreign country in which it has exercised authority since 1904. Employees who have served the Canal have done so on the assumption that they would spend their entire working lives in this employment. This may no longer be possible.

Employee organizations, understandably, had great interest in treaty negotiations as they affected their members. Provisions were sought in the treaty to protect the benefits of employees affected by the changeover. The administration agreed that such protection was justified because of the unique situation faced by these employees. Article X of the treaty, therefore, contains provisions relating to conditions of employment with the Panama Canal Commission.



Article X also requires the United States to provide an appropriate early optional retirement program and to seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities for these employees, than is currently provided by law.

Both Chairman Murphy's bill, H.R. 111, and the administration's bill, H.R. 1716, contain very similar provisions for implementing article X of the treaty.

It may be worthwhile at this point to recount a bit of the history of the present Panama Canal Zone employment system and our relationship to it.

During the construction period and up until 1955, United States and Panamanian citizens who worked in the Canal Zone were covered by separate employment systems. United States citizens were paid on the U.S. wage base with a 25 percent tropical differential. They were also exempt from U.S. income tax. Non-U.S. citizens, including a large number of West Indian nationals, were paid a local prevailing wage rate. This distinction also was maintained in terms of access to housing, recreational and sanitational facilities. This system came to be known as "gold and silver rolls" since originally U.S. citizens were paid in gold and non-U.S. citizens in silver coinage.

Pursuant to a 1955 treaty between the United States and the Republic of Panama, Congress enacted Public Law 85-550 in 1958 which provided for the establishment of a Canal Zone merit system for Federal employees of the Panama Canal Zone. This new merit system was required by treaty and law to (a) be based solely on the merit of the employee and (b) be applied uniformly to all employees irrespective of whether they were citizens of the United States or the Republic of Panama. The treaty and law continued to authorize differentials and tax allowances for United States citizens. The Panama Canal Treaty of 1977 continues the principle of no discrimination on the basis of nationality and allows additional remunerations for persons recruited outside of Panama, though this is no longer limited to United States nationals.

Effective January 19, 1959, positions in the Canal Zone were excepted from the competitive service and placed under the new Canal Zone merit system.

The Canal Zone merit system is a self-contained personnel system with regard to such employment matters as appointment and promotion. Nevertheless, the Office of Personnel Management (formerly, the Civil Service Commission) has the following responsibilities in connection with the Canal Zone merit system.

One, to make a periodic review of its operation for conformity with Public Law 85-550, Executive Order 10794, and the regulations issued by the Secretary of the Army. Under this authority, the Civil Service Commission performed two comprehensive evaluations of the Canal Zone merit system, the first in 1969, the second in 1971.

Two, to provide for the noncompetitive movement of personnel between the Canal Zone and the United States competitive service. Accordingly, the Civil Zone merit system with 1 year of service can move noncompetitively into the competitive service of the United States.

Three, to nominate one member and an alternate to Canal Zone Board of Appeals. Canal Zone merit system employees can appeal the classification of their jobs to the Canal Zone Board Appeals, of which the Civil Service Commission/Office of Personnel Management member is traditionally the chairman. However, the Board is not an instrument of the Office of Personnel Management and its decisions, while final, do not represent official decisions of this office.

Finally, it should be noted that Canal Zone employees who are veterans have appeal rights to the Merit Systems Protection Board, formerly, to the Civil Service Commission, by virtue of other laws.

Beyond these responsibilities, the relationship between the central personnel agency and the Canal Zone is generally based on requests for technical assistance and/or on the central personnel agency's general responsibility for Federal personnel matters.

Both bills provide that the present Canal Zone merit system and relative administrative regulations will apply to Commission employees until such time as the new Panama Canal employment system provided for in the bills has been established.

Both bills provide for a collective bargaining system generally paralleling the labor relations program of title VII of the Civil Service Reform Act. H.R. 111, however, would have the collective bargaining system apply to all U.S. agency employees in the Republic of Panama rather than only to Commission employees. We would defer to the views of the interested agencies and employee organizations in this matter. There does not however, appear to be any compelling reason for not applying title VII of the CSRA directly to all U.S. citizen employees in the zone except for employees of the Commission.

Both bills require appropriate placement assistance for U.S. citizen employees separated or scheduled to separate during the life of the treaty. In line with this we have developed a priority placement program for U.S. citizen employees in the Canal Zone. We believe that this program provides the maximum possible placement assistance to these persons while at the same time protecting the rights of other displaced employees and minimizing the restrictions to agency personnel management programs. We have issued a Federal personnel manual letter which explains the program to agencies.

Under the program there are two placement priority levels of employees. Priority level 1 consists of U.S. citizen employees of the Panama Canal Company, Canal Zone Government and other agencies in the Canal Zone who are involuntarily separated as a direct result of the implementation of the Panama Canal Treaties. Priority level 2 consists of those U.S. citizen employees of the Canal Zone Government and the Panama Canal Company in the Canal Zone who are not being involuntarily separated but who desire to leave the zone.

When priority level 1 employees are qualified and available for a vacancy which an agency has, the agency must select a priority level 1 employee, or not fill the job. It will not be permitted to fill the vacancy by the appointment of other applicants from either outside or inside the agency.



There are exceptions where a statute, for example, requires an agency to select a former employee who is returning from military service and who is entitled to restoration rights.

When priority level 2 employees are qualified and available for a vacancy which an agency has, the agency may not appoint an applicant from the outside ahead of a priority level 2 employee. However, the agency would be permitted to fill the position with one of its own employees. This differs from the consideration which priority level 1 employees receive because, as I stated above, the availability of priority level 1 employees prevents the agency from filling a vacancy with employees from the outside or with its own employees. We believe that there should be this difference in placement assistance because priority level 1 employees are facing the imminent loss of their jobs, and priority level 2 employees are not. Priority level 1 and 2 employees will register for up to five occupational categories for which they qualify. They will be permitted to register for assistance in any 2 of the 10 regions of the Office of Personnel Management, or in one region and Washington, D.C. They will be entitled to assistance at their former grade, excluding GS-16 and above, and all other lower grades which they are willing to accept.

Employees will receive assistance for 1 year but will be removed from the program sooner if they locate a continuing Federal position or decline an offer which they had indicated would be acceptable.

Office of Personnel Management area offices will have the primary responsibility for the day-to-day operation of the placement program. The area offices will periodically publish lists of series and grades for which Canal Zone employees are available. Agencies having vacancies in these series will be required to contact the area offices which will provide the applications of the displaced employees. The agency must select a displaced employee in accordance with the restrictions which I have described. If the agency believes that a displaced employee is not qualified for the position, it must present evidence to the area office, and only the area office will be authorized to remove a displaced employee from consideration on the basis that he does not qualify the position.

In developing this program, we were very concerned that other displaced employees throughout the United States not be denied consideration to which they are entitled. Therefore, when Canal Zone employees are registered for the same geographic area and series as other displaced employees, the other displaced employees will receive the same degree of placement consideration as Canal Zone employees. Agencies will be referred Canal Zone and other displaced employees at the same time, and they will be permitted to select from either group.

In response to article X(10)(a) of the treaty, and the request of the Panama Canal Company, the Office of Personnel management authorized early optional retirements under Public Law 95-454 for employees of the Panama Canal Company and Canal Zone Government. This authorization extends from April 1, 1979, through September 30, 1979, and applies to all employees with at least 25 years of service at any age and to employees with 20 years of service at age 50. Employees who elect early optional retirement under this



authorization will have their annuities reduced by 2 percent a year for each year under age 55. We had no authority to change this provision. We do not expect that many employees under age 55 will take advantage of this authority but will wait for implementing legislation to be enacted.

Both H.R. 111 and H.R. 1716 contain liberal eligibility requirements for, and special computation of annuity for the retirement of Federal employees in Panama. Although these provisions are liberal we believe they are justified because of the unique circumstances and because of the need to protect the interests of the United States in Panama. To do this we must retain trained employees so that the transfer of all remaining functions to the Republic of Panama will be accomplished gradually throughout the life of the treaty without major problems or disruption of services.

After months of effort, coordinated by the Army Department, and involving staff of the OPM, employees and employee organizations in Panama, as well as the General Counsel of the Canal Zone Government, we believe these provisions are required to fulfill the mandates of the treaty and, at the same time, protect the interest of the United States. Because employees of the Panama Canal Company and the Canal Zone Government will be more adversely affected by the treaty when those agencies are eliminated, the provisions for them are more liberal than for those employees who are employed immediately prior to April 1 or October 1, 1979 by other executive agencies in Panama.

Both bills provide that persons employed by the Panama Canal Company or the Canal Zone Government immediately before April 1, or October 1, 1979, including those transferred without a break in service to either the Panama Canal Commission or another executive agency in Panama, who are involuntarily separated, or scheduled to be separated, during the life of the treaty, as a result of implementation of the treaty, will be entitled to an annuity if they have 20 years of Federal service, or if they are at least 48 years of age and have at least 18 years of Federal service.

Additionally, during the life of the treaty, such persons may retire voluntarily after 23 years of service or at age 48 after 18 years of service. On the other hand, any such employee who transfers without a break in service to the new Panama Canal Commission or another executive agency in Panama on October 1, 1979 and continues working will receive a more liberal computation of annuity, 2½ percent of average salary, for up to 20 years of such continuous service after October 1, 1979.

Such employees who are law enforcement officers or firefighters will be eligible for the regular law enforcement computation for up to 20 years if they separate after age 48 with at least 18 years of service.

Additionally, if they continue to serve in Panama without break in service after October 1, 1979, their annuities will be increased by \$8 for each full month of service after that date until they have completed a total of 20 years of law enforcement or firefighter service.

If they separate prior to attaining age 48 and 18 years of such service they will not be eligible for the 2½ percent law enforcement formula for service prior to October 1, 1979 but their annu-

ities when they do retire will be increased by \$12 for each full month of service as a law enforcement officer or fire fighter in Panama before October 1, 1979.

H.R. 1716 and H.R. 111 also provide that persons employed immediately before April 1, or October 1, 1979, by an executive agency in Panama other than the Panama Canal Company or the Canal Zone Government will be eligible, for an annuity, if involuntarily separated as a result of the treaty after 20 years service or after attainment of age 48 and 18 years of service. Such persons will not be eligible for voluntary optional retirement at age 48 or after 23 years of service at any age. Furthermore, they will not be eligible for the special computation for continued service in Panama after October 1, 1979. This is because they are employed by agencies which are not confined to Panama and which are not being abolished; therefore, the adverse effect of the treaty will not be so great on them as on those employees of the Panama Canal Company or the Canal Zone Government.

There will be no reduction in any of the foregoing annuity computations for being under age 55. As I stated before, however, we believe these provisions are required to fulfill the mandated requirements of the treaty and to protect the interests of the United States in Panama during the life of the treaty.

With regard to the financing of the cost of these early retirement provisions, there are differences in the two bills which should be noted. The section analysis of H.R. 111 states that the requirement in section 240(a) of that bill that the Commission reimburse the retirement fund for:

Government contributions, is not limited to the matching contribution by the agency but would apply to all payments into the fund by the U.S. Government on behalf of employees of the Commission, including the matching contribution and the addition to the fund of the early retirement provisions in chapter 3 of title I of the bill.

As we construe the intent, the Commission would be required to pay the entire cost of these early retirement provisions out of annual appropriations over the 20-year life of the treaty. The administration bill does not do this but, provides for automatic appropriations over a 30-year period as authorized by section 8348(f) of title 5, United States Code. This is the preferred approach.

We are not convinced that the technical language of section 240(a) of H.R. 111 would accomplish the stated intent, but assuming that it would, there are certain questions which should be answered. What happens if the Commission is unable to make a payment of a number of payments because Congress fails to appropriate enough money in those years? What is the alternative? Since we would still be obligated to pay the annuities from the Civil Service Retirement Fund, whether or not we were reimbursed, such payments would add directly to the unfunded liability of the fund since there would be no automatic appropriations to compensate for the payment.

Both bills have provisions concerning social security and retirement benefits applicable to employees of the Commission who are not U.S. citizens. Such employees who transfer to the Commission without a break in service from the Panama Canal Company, the Canal Zone Government, or from another executive agency in the



Republic of Panama, will, if they were covered under the Civil Service Retirement System, continue to be covered by chapters 81 workers compensation; 83, retirement; 87, life insurance; and 89, health benefits; of title 5, United States Code. These coverages will continue until their retirement or until the termination of their employment for any other reason. Any such non-U.S. citizen hired, or rehired after a break in service, by the Commission after October 1, 1979, will be excluded from these coverages. Instead, they will be covered from the date of their employment under the social security system of the Republic of Panama. The Commission will collect and transfer the employer's and employee's contributions to the Panamanian social security system for such employees.

The treaty provides special retirement provisions under the Panamanian social security system for employees regardless of nationality, who work in Company/Government activities being transferred to Panama. These provisions set up a special regime, identical in eligibility requirements, benefits and employer/employee contributions to the Civil Service Retirement System. These provisions assure employees in transferred activities that they will not lose retirement benefits as a result of the transfer.

Any Federal employee who is separated from a covered position with the Panama Canal Company, the Canal Zone Government, or the Commission as a result of implementation of the treaty, and who becomes employed under the social security system of Panama because of the transfer of a function or activity to the Republic of Panama may elect to purchase an equity under the special regime if he meets certain requirements. If the employee has served less than 5 years, he or she may elect to transfer his or her contributions to the Panamanian social security for the purchase of an equity equal to the amounts transferred. If the employee has served at least 5 years under the Civil Service Retirement System, is not eligible for an immediate civil service annuity and does not elect a deferred civil service annuity, he may withdraw his contributions from the Civil Service Retirement System and transfer them to the social security system of the Republic of Panama.

When all these conditions for employees with at least 5 years service are met, the United States is required by the treaty to make a payment into the social security system of the Republic of Panama equal to the amount withdrawn by the employee and contributed by the employee to the Panamanian social security system. Under the proposed legislation, this payment will be taken from the civil service retirement and disability fund, since that fund will have no future obligation toward these employees or their survivors. The transfer of funds was mandated by an agreement in implementation of the treaty, although the source of the funds was not identified.

There is no definite information as to the estimated impact of retirement benefit changes resulting from the Panama Canal Treaty. We have pieced together available information to derive a total picture as stated below. If our knowledge of the facts is not complete, or these facts change, the cost figures will have to be modified.

Information in 1977 had been that the average salary, including tropical differentials for all affected employees covered by retire-



ment, was then \$11,600 per person. We have no updated information on salaries, but allowing for the two intervening pay increases, we estimate that the current pay of employees covered by retirement to be \$13,000 per person.

According to the Panama Canal Company/Government, they presently have 14,100 employees. They estimate that 5,800 positions in the Canal organization will be affected as a result of the treaty. Of these 5,800 employees, 3,200 will be transferred to the Department of Defense, and 2,600 will be separated from employment by reduction in force. The reduction in force actions will be partially offset by an estimated 1,500 retirements occurring before the treaty becomes effective October 1, 1979.

Assuming that the treaty implementation legislation passes, the 1,500 employees who are expected to retire will retire under the liberalized retirement provisions of this legislation, instead of under the early optional retirement provisions which OPM has authorized for the period April 1 through September 30, 1979. Since the retirement provisions proposed by the treaty implementation legislation are more liberal than the early optional retirement provisions available under present law, an additional liability of \$26 million will be generated by the retirement of these 1,500 employees.

A total of 10,000 employees will be eligible for the liberalized retirement provisions on and after October 1, 1979. After the retirements and reductions in force take place, about 6,800 employees will continue with the Panama Canal Commission. The 3,200 employees who will be transferred to the Department of Defense will also be eligible for the liberalized retirement. Previous cost estimates made by the Civil Service Commission last year did not include the cost for these 3,200 employees and were, therefore, lower than the estimate we have today. We now estimate that the retirement liability generated by the proposed liberalized retirement provisions for all 10,000 employees who would benefit is \$177 million. This does not include the cost for liberalized retirement based on involuntary separation as a result of treaty implementation for present employees of executive agencies other than the Company/Government because we have no data on numbers of such employees who might retire.

There are also special provisions proposed for law enforcement officers and firefighters. We are told that there are 600 such individuals. The liability generated as a result of the special provisions for law enforcement officers is \$2 million.

The total additional liability for all of the liberalized provisions is \$205 million. Under the existing retirement laws, this liability would be amortized in 30 equal annual installments of \$12.7 million each, paid out of general revenues by the U.S. Treasury. If the Panama Canal Commission were obligated to amortize this cost over 20 years under H.R. 111 the annual payment out of Panama Canal Commission appropriations would be \$15.7 million.

The above liabilities do not include the cost of transferring money to the social security system of Panama to match the amount of employee contributions which certain separated Panama Canal Company/Government employees who become employed by the Government of Panama may elect to have paid over to such

system. It is difficult to estimate the cost of this provision before it is known for certain how many employees may be involved and how many may actually elect to make a transfer of their own contributions.

The employees to be separated by reduction in force will tend to be younger employees who lack the 20 years of service generally required for early retirement. In separations of this kind, it has been our experience that the majority of separating employees immediately request a refund. Accordingly, we estimate that only about 300 employees, with the required 5 or more years of service, will actually elect to transfer their retirement contributions to the social security system of Panama and, thereby, obligate the United States, and, under the proposed legislation, the civil service retirement fund, to transfer a matching amount.

Therefore, we estimate that the cost of matching retirement contributions transferred to the social security system of Panama will not be more than \$1 or \$2 million. If interest were to be required to be paid on these funds, or if the actual equitable value of the benefits are transferred, as H.R. 111 may require, the cost would be substantially higher.

This concludes my formal testimony on these two bills. I will be happy to try to answer any questions you may have.

This contains the best cost information we currently have as to the impact on the retirement system. We continue to work with the Defense Department and the Army to give you more detailed information about the employees who may or may not decide to retire.

I would, however, make the point that predicting how they will behave is at best a very inexact science.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Campbell.

One of the sources of concern that I have been able to detect is the question related to the omission of Canal Commission employees from the provisions of title 7 of the reform bill. Was that deliberate?

Mr. CAMPBELL. We felt it was appropriate that the system established for the Panama Canal Commission employees follow closely title VII and the administration bill would suggest that. Because that body will probably become more Panamanian and will become more a matter for the Panama Government, we also thought it might be—and here I speak in behalf of the agency involved and they will perhaps be better able to give you better detail on this than I—flexibility in relation to that matter. Unless I am mistaken, I think the representatives of some employee organizations also have that feeling.

Now, there is a difference between H.R. 111 and H.R. 1716. In the administration proposal, all provisions will apply to all U.S. employees in the Canal Zone. That is not true in the case of H.R. 111.

There is a significant difference, but there is also the fact that we are suggesting in the administration legislation that there may be some differences between title VII and the employee-Commission relations for those employees working for the Commission.



The CHAIRMAN. If the Committee chose to include Federal employees in the Commission under title VII, what would your position be concerning alien employees in the Canal even under the Civil Service Reform Act?

Mr. CAMPBELL. It is certainly our belief that whatever kinds of rules and regulations apply to employee relations should apply across the board to all employees of the constituent agencies.

The CHAIRMAN. In an effort to clarify, is it the intent of the legislation to encourage employees to leave or to stay?

Mr. CAMPBELL. The intent of the legislation is to encourage those employees who are very valuable to the operation of the Canal and its constituent parts to stay. We became convinced during our discussions with the spokesmen for employees that the way to do that was to provide for the potential of an early liberal retirement so that the concern about what was to happen, as the Canal came under increasing Panamanian control, would decline and thereby the employees would stay on. The intent, then, is to encourage them to stay. Other employees who are simply not needed will be involuntarily separated by reduction in force.

The CHAIRMAN. The determination that 10,000 employees would stay and 1,500 would retire was made in what way?

Mr. CAMPBELL. I am going to respond to the degree of my knowledge and then I will ask Mr. Tinsley whether he has further information.

First we had the number of those to be involuntarily separated. That is a hard number which we know will leave and we know the provisions of the legislation will apply to them.

Then there are those who have the opportunity to leave. The number we use here is based upon the potential and predictions about whether or not the legislation will be taken advantage of.

As I said earlier in response to Congresswoman Spellman's question, the estimates are on the high side, that we assume more will leave than in fact will. However, we feel it is better to be on that side than it is on the other side in terms of projecting future costs.

Mr. Tinsley, have you further information than that?

Mr. TINSLEY. No. Basically the figures we are using here in large part came from the Department of the Army, as we attempted to get together with them to be able to furnish our actuaries with some type of a basis as to how many employees would be affected, at what salary, and to what extent.

Within the next couple weeks we expect to have additional information. We have been seeking additional information during the past month.

If that additional information tells us more than we now know, then certainly we will do a reevaluation and furnish a new estimate concerning the costs.

In addition to that, the office of the actuary took that information and built in certain assumptions to arrive at these estimates. It was done on a static basis because that is the way that the Civil Service Retirement Fund is currently financed.

The CHAIRMAN. Would we be correct in saying there are about 15,000 people involved altogether?

Mr. CAMPBELL. That is about right. It is approximately 15,000.



The CHAIRMAN. Is it fair to say that through ordinary attrition you would lose about 10 percent of the people per year? Would that be a fair estimate?

Mr. CAMPBELL. Quite frankly, Mr. Chairman, I don't know. I can give you an opinion but it would be personal opinion.

The CHAIRMAN. Mr. Wilson?

Mr. WILSON. Mr. Campbell, the President did not have any figures in his budget for this legislation. Where do you get your budget authority for what you are asking the committee to authorize in this bill? The Budget Committee also has been trying to get information from you, I understand, and has been unsuccessful.

Mr. TINSLEY. In terms of financing the retirement system, the 1969 law, that placed the permanent financing provisions in the law, stipulated that any time Congress passed legislation that in effect increased the unfunded liability of the Civil Service System, they also authorized this 30-year amortization payment, so the authorization would occur at the time you were to enact this legislation creating the unfunded liability.

The second step, then, would be to submit to the Appropriations Committee, as part of either our regular budget or as part of a supplemental budget, a request for the amount of money.

Mr. WILSON. Are you not going to ask for a authorization in this legislation?

Mr. CAMPBELL. I think if the legislation passes, it provides that authorization because it will create an unfunded liability, an increase in the unfunded liability.

Mr. FORD. The problem I have with that is that you refer to the provisions of the 1969 act which has been superseded by the Budget Control Act which prohibits what used to be called backdoor funding. What you are describing here is a classic case of backdoor funding.

I don't know whether we can survive a point of order on the floor with a bill which would have that effect. Have you looked at that and have you talked to the staff of the Budget Committee as to what happens if there is an automatic authorization resulting from new language in the bill?

Mr. CAMPBELL. To my knowledge we have not, but we obviously will.

Mr. WILSON. The point is that the Budget Committee has been trying to get the same information from you that GAO has been trying get on behalf of Mrs. Spellman's committee and has been no more successful. Are you going to be able to furnish this committee with the actuarial figures?

Mr. CAMPBELL. Two comments in response. One is that I have not received to my knowledge any request from the Budget Committee for information on this. I am certain that if we had received it it would have come across my desk. Nor did GAO make any request through my office for the kind of information that has been suggested. Had they done so I can assure you they would have received as complete information as we can provide them.

Second, I would say that to the extent that we have information today on the employees likely to be affected by this—in terms of numbers and average pay—I have presented our best estimates of these costs.

As Mr. Tinsley suggested, as we get a further breakdown on the characteristics of the labor force in that area, and to the extent we can get better guesses as to how many will take advantage of it, we will provide further information.

As to the actuarial assumptions, which are the same we make in relation to calculating any unfunded liability, we will be happy, and I take it as an official request of the committee, to provide you with that actuarial information.

Mr. WILSON. When will that be available?

Mr. CAMPBELL. Tomorrow.

Mr. WILSON. Is there a Mr. Pettibone in your office?

Mr. CAMPBELL. Yes.

Mr. WILSON. He was the gentleman through whom the request was made.

Mr. CAMPBELL. I shall chat with him about it.

Mr. WILSON. I asked Mr. Popper whether he was aware of any special benefits guaranteed to pilots as a result of the deal they claim they made with the President to support the treaty.

Are you aware of any special benefits for the pilots?

Mr. CAMPBELL. No more than the general liberalized retirement laid out here in testimony. I did participate in several discussions with the leaders of the pilots' organization, and many of the provisions we finally agreed to in terms of liberalized retirement were discussed with them.

I do not know of any benefits beyond what is spelled out here.

Mr. WILSON. It was testified to in our hearings in Panama.

That is all I have at this time, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Derwinski?

Mr. DERWINSKI. If you don't mind a personal comment, since we passed that great reform bill you hairline seems to have receded somewhat more. I hope your new shop is thriving.

Mr. CAMPBELL. I thank you very much for the compliment. Implementation is more difficult than passing the legislation.

Mr. DERWINSKI. Now you tell us. Can you tell me whether in addition to the payment by the U.S. Government to the Republic of Panama when an employee separates from the United States and takes a job in the Republic there is any other financial obligation that we have assumed other than the payment to the social security system of Panama?

Mr. CAMPBELL. If the employee opts to take out his contribution, and he has had over 5 years service, then the obligation is for the Federal Government to match that, just as they did when it was paid in, and there is no further obligation.

If the employee does not take it out, and it remains in the system, he may receive an annuity at the appropriate age, as would anyone else who had the required service.

Mr. DERWINSKI. In the process of having to look ahead to making these payments, has your office or has any other office of our Government studied the Panamanian social security system, the status of its fund, in order to determine that at least we would not be pouring money down the drain so to speak?

Mr. CAMPBELL. I am not expert on that. I did ask that question of some people who are more deeply involved in this than I, some



from the Ambassador's office. They are satisfied that it is a generally sound system.

Mr. DERWINSKI. On page 4 of your statement you describe to the committee the agreement that was entered into by the Civil Service Commission with the Canal Zone Government involving personnel interchange agreement whereby someone would move from a noncompetitive position in the Canal Zone to the U.S. competitive service after 1 year of service. When was that reached? I do not see anything to indicate that.

Mr. CAMPBELL. I am trying to determine myself; 1969 was the first agreement. No, that was an evaluation.

Mr. DERWINSKI. Some time subsequent to 1971?

Mr. CAMPBELL. The date the agreement was effective was March 17, 1960.

Mr. DERWINSKI. Was it you agency which has the problem of implementing article 10 of the treaty which calls for the United States to establish training programs for Panamanian employees in order to increase the number of Panamanians qualified? Do you get into that at all or is that the Canal Zone Commission? Who handles that?

Mr. CAMPBELL. It would be the obligation of the new Commission to do that. If they sought aid and assistance from us on a reimbursable basis we would look with favor on that kind of request.

Mr. DERWINSKI. Obviously they have not yet made that request?

Mr. CAMPBELL. Not yet.

Mr. DERWINSKI. Taking this very broad area of liberalized retirement benefits, are you concerned at all with regard to any precedence which might be set?

Mr. CAMPBELL. We had a lot of discussion about that when we were working with the employee organizations. One of the arguments I frequently used in those negotiations was that we must be careful not to create precedents. I think that the situation with the Panama Canal is sufficiently unusual that there are not many other situations like it around the world that we can think of which might require this kind of use. Certainly it is our belief that this is a one-time effort related to very special circumstances and should not in any way be treated as a precedent, and in all official documents related to this and in discussions and correspondence, that point has been made many, many times. I am pleased to have the opportunity to make it again today on the record here.

Mr. DERWINSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Derwinski.

Mr. Ford?

Mr. FORD. Apropos of your last statement, there are some precedents for this kind of a situation. When DeGaulle kicked us out of France unceremoniously in 1966 or 1967 we had a very large concentration of civilian school teachers in the DOD system who were displaced. It might be worthwhile to see what we did for them.

A few years later we were kicked out of Libya with our airbase and along with military implications. It involved a substantial number of civilian civil service employees who were in some way absorbed there.



That brings me to the question of why anyone other than a direct employee of the old Panama Canal Company should have these early retirement benefits and these other things. Why should anybody in the Army, FAA, or other agencies be involved here?

The chart I have shows that we have civilian employees for the Air Force, Army, Navy, FAA, Smithsonian Institute, and U.S. District Court. I didn't catch the distinction with respect to how they will be treated. It seemed to me they are getting some sort of special consideration. Why?

Mr. CAMPBELL. The reason they are getting some kind of special consideration is this: The argument made to us was that even for employees of regular agencies in the Federal Government in the country of Panama, there had been developed a whole set of special privileges related to the school system and other employees who had access to other benefits, and that they anticipated a continuation of that kind of special situation. Further, they were much concerned about the loss of U.S. Government control over the zone, and therefore they felt they ought to have the opportunity to leave Panama if they felt that was in their best interest.

That point was made very forcefully to us by the union spokesman for those employees. I guess the answer is that they convinced us that there was a special case to be made for employees of other Federal agencies in Panama.

Mr. FORD. I would expect that the union representatives would do that. That is their job. I think you and I have a clear understanding as to where I generally stand with respect to the unions concerned.

Mr. CAMPBELL. Yes.

Mr. FORD. I see an underlying concern, that perhaps in their anxiety to deal with the immediacy of the problem they have not looked at the precedent of making massive changes that really tear up the fabric of what we tried to do by rationalizing the civil service system and the civil service reform bill, simply by using the device of early retirement and other things in the way of special benefits to try to buy people into a subversion of the system.

There is another precedent we had for that, and that is when we created the Postal Corporation in 1970.

Mr. H. R. Gross, who preceded Mr. Derwinski as the ranking minority member on this committee, let out a howl that could be heard across the country when he found out that the new management would buy out a whole lot of upper- and mid-level executive types in the Post Office with early retirement. It cost us a real bundle. Unfortunately we had not prepared for it in the way you are suggesting here. Apparently it became a deficit to the Civil Service Retirement System without any repayment being made by the Post Office for that privilege.

There was some thought that this was a handy device to get rid of a whole lot of people to make room for new appointees, which obviously is not involved here except to the extent we are trying to replace Americans with Panamanians.

You said in passing a few moments ago, as you were enumerating the involuntary separations, there were some 2,600 people who would be rifed. Is that figure right?

Mr. CAMPBELL. I think it is 2,600.

Mr. FORD. The way you described them, and I am trying to quote you, they are simply those not needed. Are we saying we had that many surplus employees for the continued operation of the canal? What does not needed mean?

Mr. CAMPBELL. I did not choose my language carefully enough. It is a combination of a reduction in the number of employees in activities being transferred to the Government of Panama and a move to a gradual increase in Panamanian employment in the continuing Panama Canal Commission.

Here I would urge that the people who have been responsible for the operation of the Panama Canal Company be asked this question. My assumption is that there is an improvement in efficiency taking place and that there is a reduction in the need for employees. I hope there is; 2,600 is correct.

Mr. FORD. If 2,600 can be taken from a total work force of 10,000 in the Canal Zone Company—

Mr. CAMPBELL. It is 14,000.

Mr. FORD. 14,000 encompasses the other agencies.

Mr. CAMPBELL. It encompasses the two, the Government and the Zone Company.

Mr. FORD. Just the Company alone is 10,000?

Mr. CAMPBELL. I think that is right.

Mr. FORD. If you can find 2,600 people who are not needed in that agency this fast we ought to put you to work on some others. Does that really seem realistic?

Mr. CAMPBELL. The 2,600 means 2,600 out of 14,000; the number of employees from the Government and the zone. However, it does not change your point at all and I understand that.

Mr. FORD. Obviously there is something else working here.

Mr. CAMPBELL. There must be something else at work there. Mr. Ford, I will simply have to check and report to you on what it is. [The information follows:]

The 2,600 employees to be separated by reduction in force are employed in Company-Government activities which are being transferred to the Government of Panama under the treaty.

Mr. FORD. I have never voted against an employee's benefit of any kind since I have been on this committee. I have no intention of starting now. However, there is a degree—I don't want to use the word "irresponsible," but there is a degree of generosity here which astounds me. I have learned after 15 years around here that when somebody is too nice to you you had better find out why.

I cannot put my finger on it but I have become very uneasy as we have been walking our way through this thing. I am concerned, as is Mr. Derwinski, as to whether or not we are creating a precedent. I am further concerned about problems we are having with regard to preferential hiring generally in the service and the fact we are attempting, though not always directly—but it is the policy of this administration—to reduce the work force wherever possible. We are creating this category of person you are talking about, and it will be bad if you are bumping somebody and this committee will be refereeing cat and dog fights with every union representing every kind of employee we have. It looks as though you are giving them a hunting license.



You say they can pick up 2 of any 10 regional offices, look for a job, and have absolute hiring rights when they walk in there. They may walk in on top of a half dozen people who have been waiting for years for a position to open up.

That kind of mess will fall back to you and ultimately to us. While on the surface it seems like a very liberal approach, it certainly is from the standpoint of the displaced Panamanian worker, I question whether it is with regard to the other employees.

Mr. CAMPBELL. I share your concern.

Mr. FORD. You recall I was one of those who voted with you on the veterans' preference at election time because you persuaded me that these unusual preferences were not good for overall administration of a system, particularly with respect to management.

Having persuaded me of this you are now sent up here because of necessities of complying with this treaty and suggesting this—the gentlelady from Colorado would have asked you if she were here—is there any precedent any place else for this kind of absolute preference being given to one civil service employee over others?

Mr. CAMPBELL. I have been told this is the first time there has been this kind of absolute priority. As you are aware, there have been relative priorities in other situations, but this is the first time. It is based obviously on the proposition we think this is a unique situation.

Mr. FORD. The second priority you have sounds a little bit familiar to me.

Mr. CAMPBELL. Yes.

Mr. FORD. It seems we have done that sort of thing in the past.

Mr. CAMPBELL. Yes.

Mr. FORD. This sticks out as something very extraordinary, however, and raises the question of being fair to one group of people at the expense of others. We will hear about it when the individuals directly affected feel it trespasses on them and their agency.

Mr. CAMPBELL. I feel you are right. I would say it applies only to those involuntarily separated, the smallest number of the group. It is not a substantial number. Despite the problem you quite properly point out, the restriction on Federal employment, we do hope there will be enough give in the system that these people can indeed be absorbed, and not upset genuine and realistic expectations employees might have for promotions or jobs.

Mr. FORD. You had better hope they do not end up in suburban Virginia or Maryland.

Mr. CAMPBELL. We are gearing up most strongly to deal with this in Florida.

Mr. FORD. Thank you.

The CHAIRMAN. Just to add to what the gentleman said with respect to precedents, another precedent is about to be established when we deliberate the Taiwan issue and talk about displaced Government employees. That will be a new concept for yet another precedent. I merely add that to your inquiry regarding this one.

Mr. FORD. We have some DOD schools in Taiwan and I have visited them. This is something like the Taiwan situation which occurred with the withdrawal of troops, and it necessitated in the



closing of schools. We forced the agency in the normal course of events to fold these people back in wherever they fit. We didn't say because they happened to be in the wrong place at the wrong time they can go back to Europe or Japan and bump somebody else out of a job or a promotion. That is the difference from the way we have done it in the past.

The CHAIRMAN. The Chair recognizes the gentlelady from Maryland.

Mrs. SPELLMAN. As we talk about precedents I cannot help think about the Bureau of Indian Affairs. People are told by the court, "You are not going anywhere. You are not Indian and therefore you cannot be promoted and you have no status in your organization." We have had a very hard time getting what was the Civil Service Commission at that time to go along with agreeing that some worthwhile provisions ought to be made for these people who, through no fault of their own, had been caught in a trap like this. We have double or triple standards involved here.

On page 16 your \$205 million estimated total cost was based on an average salary of \$13,000. It seems to be, based on information contained in the 1979 budget, that the average salary is perhaps higher. This is the sort of information we needed to be able to reevaluate the figures. In the Panama Canal Government nonmanual employees were earning \$15,270; postal employees \$23,435; police \$23,392; fire \$19,305; education \$24,443; others an average of \$9,071.

In the Panama Canal Company, the GS grade averages \$18,900 nonmanual \$16,100, ungraded \$12,527. You can see we are having trouble figuring where a \$13,000 average would come from.

Mr. CAMPBELL. As I said in my testimony, we had a hard figure of \$11,600 for the year 1977 and we added to that pay increases since then and selected a figure of \$13,000. It may be a bit low, although the figures you have just cited do not demonstrate to me that it is low because it depends upon the numbers in those various categories. It may well be low.

Mrs. SPELLMAN. I give you those figures because I want to show we are not being unreasonable when we ask for some justification for the figures—not justification but how you arrived at them. Our figures would indicate that the average annual salary as you have stated it is understated by approximately 35 percent.

If it is 35 percent low then obviously the overall figure is something like 35 percent low and we are dealing with information which is not very substantive.

We were concerned recently in reading the testimony of Mr. H. L. Kreeger, talking to the Senate Governmental Affairs Subcommittee, he pointed out that all of us are operating on a lot of misinformation. He cited the fact we were getting this information from the then Civil Service Commission.

Therefore, we are concerned not that this is misinformation, but we need to understand the information we are getting. We would like to be sure to get information on just how that \$13,000 average figure was arrived at.

Mr. CAMPBELL. We will certainly provide that information; within a week's time we hope to have absolutely accurate information.

Mrs. SPELLMAN. Good. I must admit to you that I have had some real concern about the policies we are using. We have all asked questions about early outs. I don't really understand, and perhaps you can fill me in on this—if pilots are desperately needed, and we are told they are, then why do we make it attractive for them to leave instead of making it attractive for them to stay on?

I would not have offered early outs. I would have said for every month you stay on, every year you stay on, so much will be added to the pot, so much sweetener, and they would have been tempted to stay on rather than being given an opportunity to weigh whether they want to get out because they can get the retirement and go on to second careers.

Can you spell that one out for me?

Mr. CAMPBELL. First, you may be right that that would have been a way one could have retained the pilots. That was the goal in relation to the design of this legislation.

In our discussions with the leader of the pilots' organization their major concern related to what they believed would be changes in Panama which would make it an unattractive place for them to continue to work, and that therefore they wanted some sort of early out option provided. If you put a deadline on it, people would take it in fear of what the situation would be down the road.

We therefore felt that the most likely way to retain them was to keep that option available to them so they knew that any time they wanted to leave they would have that option. They believed that would be the most attractive way to retain them.

Mrs. SPELLMAN. Given the fact we have given them an early out option, surely if we do not extend it they will leave right away.

My question is why we gave them that option at this end at all. That option in my estimation should have been way down the line.

Mr. CAMPBELL. They claim there were lots of job opportunities available to them elsewhere, and if not given an early out option they would simply take what they have in the system and move on to other jobs.

Whether that in fact was a correct assessment of their situation I do not know. I am assured by people who know something about that field that there are job opportunities.

Mrs. SPELLMAN. I wonder whether you have given any thought to what would have been the result if the bill did not have all of these early out options all the way down the line; that is, if other avenues had been pursued. Would a lot of people have just left, anyway?

Mr. CAMPBELL. It was our concern that if these kinds of options, apart from the fairness and equity issue, were not provided, very large numbers of very necessary people to maintain the continuing operation of the canal may have departed. Obviously we were guessing. I am sure the people who were telling us about the problems were trying to be sure we did give all the assurances we could.

That was the argument made in favor of doing this.

Mrs. SPELLMAN. You were guessing. We are second-guessing.

Mr. CAMPBELL. That is right.

Mrs. SPELLMAN. I guess there will be third-guessing on the floor.



Mr. FORD. That expression "the people we need most" hits me. If you give a voluntary early out without loss to people at age 48 with 20 years—is that it?

Mr. CAMPBELL. Yes.

Mr. FORD. Then we are talking about a pool of 10,000 people who have this eligibility. Is it not our most experienced people who are likely to be exercising this? Is it a fair assumption that the more experienced leadership-type people who are operating the canal now are the ones at that age group to whom we would suddenly say, "Do something else at 48 years of age and do not stay here to help run the canal"? Is not the voluntary application of this likely to be overburdened with the very people you need to train the Panamanians to take over?

Mr. CAMPBELL. It is our estimate that that will not be the case. These are people, who may be second or third generation people in Panama, who have a real desire to stay, who are indeed, whether correctly or incorrectly, very fearful, as you undoubtedly heard when you were down there. It is our judgment that given the opportunity to stay in a situation where they feel relatively protected they will do so.

We think it is the type of person you are describing who will stay. If we are wrong we have made a bad mistake.

Mr. FORD. No matter how bad it gets, if you can retire at 48 and get on the civil service retirement system, with the annual cost of living increase you are crazy to stay in Government.

Mr. CAMPBELL. A lot of people do.

Mr. FORD. There is no way the average employee will ever catch up with what he can make from retirement. They have pencils and paper and they can figure it out.

Has any thought been given to the fact we have devised a system that will bleed off the people you need most?

Mr. CAMPBELL. As I said, it is not our estimate that that is the way it will work. Frankly they would not, on retirement, make as much as they would on the job. If they retire and get another job you have a different situation.

From everything we learned about the situation, we believe there was a genuine commitment to stay. Further, to take the option to stay was a way of leaving if the situation developed the way many of them feared it will. We are not sympathetic with that view, but that was their concern.

We do not believe the people you are describing will take advantage of the early out.

Mrs. SPELLMAN. If we talk a little further about the retirement, 70 percent of the people, and I think I asked this question before and was told to ask it of you; 70 percent of the people affected are Panamanians. Why are we offering them early out? Why are we offering them all of the special considerations to keep them there? Wouldn't they be staying there, anyway?

Mr. CAMPBELL. Many probably would. I think this is simply a case of believing that it should be nondiscriminatory and we should not draw a line between U.S. citizens working for the U.S. Government and non-U.S. citizens who have been working for the U.S. Government.



Mrs. SPELLMAN. What would happen if, as we were asked, we were to enable the Panamanians to come here to the United States and have employment rights? Would that create problems for us here?

Mr. CAMPBELL. I don't know the answer to that question nor have I thought very much about it. I know a bit about the problems of some of the people in Panama, the people of West Indian origin.

Whether it would produce a large proportion of them taking advantage of reemployment opportunities in the United States, I simply don't know. Obviously those rights apply to citizens but not to noncitizens.

Mrs. SPELLMAN. We were asked also to take care of any of the employees whether they be citizens or not. I don't know whether that request has come to you yet. It was part of the testimony before us.

Mr. FORD. If the gentlelady would yield. If you look at the bill, I was interested in the number of committees this legislation has been referred to, it is referred to the Judiciary Committee for title 4. You look at title 4 and you find section 410, special immigrants, which means apparently there is some legislation required to provide for special status for Panamanians who might opt to come here.

Mr. CAMPBELL. I think that is correct. I am not well informed on those provisions.

Mr. WILSON. If I may ask a question on that. That is really the West Indies, is it not? Does that include Panamanians as well?

Mr. CAMPBELL. I thought it was general but I don't know. We can certainly provide you the answer to that.

[The information follows:]

The special immigration is not for Panamanians in the Canal Zone. It is for the West Indians whose families helped build the canal.

Mr. WILSON. West Indians are Panamanians now?

Mr. CAMPBELL. Yes; it would be hard in the law to draw that distinction.

Mr. FORD. It goes further. If you look at the bill on page 56, after making some other changes it states:

(E) an immigrant who is an employee of the Panama Canal Company or Canal Zone Government, who is resident in the Canal Zone on the effective date of the exchange of instruments or ratification of the Panama Canal Treaty of 1977, and who has performed faithful service for one year, or more, and his spouse and children who accompany or follow to join him;

It goes on to describe the family members who can come in under the special consideration. It is asking for a special status to be legislated for this type of person—any employee with 1 or more years of faithful service, whatever that means. They are getting a special status for American citizenship, or they will with this legislation.

Mrs. SPELLMAN. Is there a way you can estimate this? I imagine this is one of those things where your guess is as good as ours?

Mr. CAMPBELL. That is right. Since you have been there it would be better than mine.

Mrs. SPELLMAN. I don't know. I knew much more before I went there than I do today.

Would you prepare a statement for the record which includes appropriate consideration of future salary increases and cost-of-living adjustments?

Mr. CAMPBELL. Yes.

Mrs. SPELLMAN. Also please identify your assumptions concerning the annual pay increases, including promotions and inflation rates. How do you arrive at your conclusions?

Mr. CAMPBELL. Very well.

Mrs. SPELLMAN. Then also would you tell us about your assumption for the early outs, the average age, average length of service, and average salary?

Mr. CAMPBELL. I would be glad to do that.

I might say quickly that using the dynamic model, which you understand relates to the inflation and pay increases, total figure for the cost of the treaty provisions becomes \$335 million in contrast to the \$205 million figure we gave in the testimony. We will give you the assumption on which that is based.

Mrs. SPELLMAN. That is if we still base it on the \$13,000.

Mr. CAMPBELL. Yes; everything else is standard except changes in payroll and inflation and other matters of that kind.

Mrs. SPELLMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mrs. Spellman.

Mr. Harris?

Mr. HARRIS. As I understand your response to the last question, you do not have with you today what the assumptions are for the dynamic estimates?

Mr. CAMPBELL. I do not have them in detail. I can tell you what the dynamic model does, which takes into account inflation pay changes, other items which relate to the impact on the annuity earned by the employees, and the cost-of-living increases which the Federal employee receives.

Beyond that I cannot tell you what proportion each of these is in the formula, nor can I tell you what the formula is. I will be happy to provide that.

Mr. HARRIS. You probably want to tell me what dynamic means compared to static. I presume it means increases in the cost of living.

Mr. CAMPBELL. Net changes in pay, changes as far as the Federal system is concerned in cost of living, twice a year cost-of-living allowance that the Federal retiree receives, and the like. Primarily it is building in inflation.

Mr. HARRIS. Certainly even the static estimate would have taken into consideration normal steps in grade increases and that sort of thing.

Mr. CAMPBELL. Yes.

[The information follows:]

U.S. OFFICE OF PERSONNEL MANAGEMENT,  
Washington, D.C., March 14, 1979.

Hon. JAMES M. HANLEY,  
Chairman, Committee on Post Office and Civil Service,  
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At your committee's hearing on March 13, 1979, you requested details on the actuarial calculations used to estimate the cost of proposed liberalized retirement benefits for federal employees affected by the Panama Canal Treaty.

The critical assumption are the number affected and their average salary. We have used what we believe to be the best information from the Panama Canal Company. If, however, some of this basic data proves to be invalid the liabilities will be adjusted accordingly. You will note that average costs per person for the various categories are used. It is not possible to break computer figures down further because they are developed by use of a complex computer model. The General Accounting Office has previously validated the model but if they want to look further into the use of the model to develop these particular figures we will be happy to assist them.

The dynamic assumptions, which include a 4 percent inflation rate, appear low when compared with current levels of inflation. The Board of Actuaries, however, believes that the current levels are an aberration and that long-term inflation will return to the 4 percent level. The average rate of inflation from 1950 through 1978, for instance, was only 3.7 percent. Actuarial projections cover annuity payments over the next 75 years so the long term rate is such more relevant than any short term aberration.

Sincerely yours,

ALAN K. CAMPBELL, *Director.*

#### ACTUARIAL STATEMENT FOR PANAMA CANAL LEGISLATION TO LIBERALIZE CERTAIN RETIREMENT BENEFITS

The passage of the Panama Canal implementation legislation would increase the statutory liability of the Civil Service Retirement System by \$205 million. In accordance with section 8348(f) Title 5 U.S. Code, this liability would be amortized by annual appropriations over a 30-year period of \$12.7 million each.

The statutory liability calculation is made on a "static" basis which does not include any allowance for future general salary or automatic annuity increases. An interest rate of 5 percent is assumed. Dynamic assumptions of the Board of Actuaries include an interest rate of 6 percent, general salary increases of 3 percent and an inflation rate of 4 percent. Using these dynamic assumptions, the added liability would be \$335 million.

Estimates from the Panama Canal Company are that 10,000 individuals will be eligible for liberalized retirement on and after October 1, 1979, and that 1,500 employees will retire under the liberalized retirement provisions of the legislation before October 1, 1979. These figures include approximately 400 law enforcement officers who will also be affected by special provisions of the treaty. The PCC estimates the average earnings of all affected employees to be \$13,000.

The details of the calculations are as follows:

	Static	Dynamic
A. Cost for employees who remain after Oct. 1, 1979:		
1. Number remaining.....	10,093	10,093
2. Average salary.....	\$13,000	\$13,000
3. Total payroll [(1) × (2)].....	\$131,000,000	\$131,000,000
4. Unfunded liability generated per dollar payroll .....	\$1.35	\$2.21
5. Increase in liability [(3) × (4)] .....	\$177,000,000	\$290,000,000
B. Cost for employees who retire immediately:		
1. Number retiring.....	1,500	1,500
2. Average salary.....	\$13,000	\$13,000
3. Total payroll [(1) × (2)].....	\$20,000,000	\$20,000,000
4. Unfunded liability generated per dollar payroll .....	\$1.31	\$2.15
5. Increase in liability [(3) × (4)] .....	\$26,000,000	\$43,000,000
C. Law enforcement officers:		
1. Number retiring immediately.....	200	200
2. Average service (years).....	10	10
3. Increase in liability .....	\$1,300,000	\$1,300,000
4. Number with less than 20 yr service who remain .....	200	200
5. Average time worked after Oct. 1, 1979 (years).....	4	4
6. Increase in liability .....	\$700,000	\$700,000
7. Total increase in liability under special provision for law enforcement officers.....	\$2,000,000	\$2,000,000



	Static	Dynamic
Total Increase in liability (A5 + B5 + C7) .....	\$205,000,000	\$335,000,000
30-yr payment.....	\$12,700,000	NA

Mr. HARRIS. When we talk about dynamic we are really just talking about the increases brought about by either inflation or adjustments to the pay scale by Congress or by comparability?

Mr. CAMPBELL. That is correct.

Mr. HARRIS. This static estimate is not of much use to us, then, is it?

Mr. CAMPBELL. It depends upon your projection into the future.

Mr. HARRIS. I have seen a lot of reliable estimates, such as how much Metro costs. I have background in that.

Mrs. SPELLMAN. When you and I were on the board it was \$3.5 billion.

Mr. HARRIS. That was adjusted over the \$2.6 billion.

Mrs. SPELLMAN. That is right.

Mr. HARRIS. The question in my mind, then, is this: \$2.6 billion became \$3.4 billion because we were estimating inflation at what we thought was an incredible rate of 5.2 percent at first. Then upon reevaluation we discovered inflation was 9.5 percent.

That is my question here regarding your dynamic estimate. What sort of inflation rate did you use?

Mr. CAMPBELL. I don't know.

Mr. TINSLEY. You would have to get the assumptions from the actuary.

Mr. CAMPBELL. There have been a great number of static and dynamic projections done by private consultants and internally by Government. There is a fairly accepted model for the use of the dynamic model. We can certainly provide for you what projects as to future inflation and other changes.

Mr. HARRIS. I don't know that much about it, except I know you can have dynamics and then you can have dynamics. You can be a 5-percent dynamic or an 8-percent dynamic. That does give you, once you know what the assumption is, thing for us to make a judgement of whether the dynamics reflect the dynamics. It is important for us to know.

Mr. CAMPBELL. I would assume inflation will be projected at the rate the administration sees it over the next few years.

Mr. HARRIS. That would give us a chance, if we knew that, to evaluate it.

I heard the comment you made earlier—as you suggest, there are elements in this bill that you are not very comfortable with. You can get comfortable with them, as I understand it, only because they are not establishing precedent and you will not have to do it again. From that I take it you are willing to do it once, but not any more than that.

What is unique about this situation? Why do you consider this situation so unique as to be not prone to precedent setting?

Mr. CAMPBELL. I think the primary reason relates to the nature of the U.S. employees in the Panama Canal area, the fact that many of them are second generation, some third generation, who have an established way of life rather different from that of other

U.S. citizens; that they had anticipated a continuing job in that kind of environment, and that the treaty dramatically changes that.

Therefore, from the standpoint of equity and fairness, we felt there should be recognition of that, and added to that the imperative which we saw of trying to design a system which would be helpful in retaining those employees who will be most important over the 20-year transition.

Mr. HARRIS. I understand the purpose of it. While I want as much on the record as I can get, I want to know why you deed this. I can see our closing substantial bases in Western Europe. The day might even come when we would close a base or two in Korea and that sort of thing.

What I am really wondering about is the essential differences in those situations as compared to the situation in the Canal Zone.

Mr. CAMPBELL. I think there are essential differences. I think they relate very much to the Defense Department employment policies in overseas bases where they rotate people and people do not get that kind of subculture situation developed which you have in Panama. We have developed a means of dealing with that in base closures, through traditional early retirement as well as placement programs of the Defense Department. I do not suggest there is no possibility in the future of getting into a situation which would create the same kind of logic as the Panama Canal but I find it hard to picture what it is, except what the chairman said, and that may well have some implications for the Taiwan situation.

Mr. HARRIS. Did you say there was a subculture in the Panama Canal Zone?

Mr. CAMPBELL. I would say there is, yes.

Mr. HARRIS. Is that basically because of the unique status?

Mr. CAMPBELL. Time and unique status.

Mr. HARRIS. I am thinking of the Western European bases.

Mr. CAMPBELL. There is a lot of turnaround there. People do not stay for a lifetime in those jobs and do not establish homes in the same way as developed in the Panama situation.

Mr. HARRIS. Where you had several generations?

Mr. CAMPBELL. Yes.

Mrs. SPELLMAN. This is the information I have here before me. Virtually everyone employed by the Panama Canal Co. and Canal Zone Government on September 30, 1979, and remaining with U.S. Government employment in Panama without a break in service will become eligible to retire under these special provisions sometime during the duration of the treaty. The only ones who would not become eligible for voluntary early retirements during the treaty would be those individuals with less than 2 years of service on September 30, 1975, and less than 27 years old.

These people who served only 2 years have already become part of this subculture and would be torn apart if they were to have to leave?

Mr. CAMPBELL. I would guess very frequently they are children of people who have lived there. However, in relation to what you have just read, obviously the person would not become eligible for early retirement with 2 years of service. They would become eligi-



ble once they had completed the time, the 18 years. They then would be eligible for the early out.

Mrs. SPELLMAN. You know, we have a lot of people in my jurisdiction who work for Naval Oceanographic and had to go to Mississippi. I am sorry Trent Lott is not here because I wanted to look at him when I said that. We did not plead for them apparently because we said, "You either go or you don't go. If you don't go you don't have a job with that agency." We didn't give them any special benefits to sweeten the pot or any of that

Mr. HARRIS. Some lived in Maryland for generations?

Mrs. SPELLMAN. That is right. They were part of the subculture. We have lots of subcultures.

You know, I don't really mean to be facetious, but I do think we were overly generous in ways that I would hope we would not repeat again. We should be much more careful the next time something like this comes up.

Mr. CAMPBELL. I have no quarrel with the need to always be careful in situations like this. I would, however, defend the arrangements we made in relation to Panama due to the very special conditions there, which I think are really quite different than the difference between Maryland and Mississippi.

Mrs. SPELLMAN. We were told by some of the people who lived there as we spent some time with them in social situations that you would have a heck of a time pushing these people on board planes to get them out of here, that they love it there.

Mr. CAMPBELL. If they stay and work they won't have to worry about their early retirements.

Mr. HARRIS. I am conscious of the time and I appreciate the microphone being turned back on. I will finish this promptly.

I realize that the executive branch may not be used to the long hours we spend over here on the Hill, but I do think that to the extent there can be a paper which delineates with specificity the uniqueness of the situation in Panama as might be compared in Micronesia, Western Europe, Turkey, and Korea and such other instances which quickly coming to mind, it might be helpful as part of our legislative record on this, because I think this will become an important point to be considered.

The absolute preference which is in the bill, is that a one-time preference?

Mr. CAMPBELL. One-time successful preference.

Mr. HARRIS. You also referred to one of the chief reasons for some of these features are changes that are feared by some of the employees in Panama. Would you describe for me what those changes which are feared so much are which would cause us to offer such incentives for them to stay on?

Mr. CAMPBELL. I can only say it would be uncertainty; whether once under control of the Panamanian Government there would be discrimination or other problems related to the court system and the like.

As you well know, the United States would not have negotiated a treaty had the administration had those concerns. Nonetheless, the concerns were there among the people who would be most affected by the change. Therefore, it is that kind of situation which worried them and to which we tried to be responsive.



Mr. HARRIS. Concerns were in some cases real, but possibly also, in the view of the Government, perceived concerns?

Mr. CAMPBELL. They are concerns the people clearly have. It is my own judgment that those concerns are probably improperly placed, but they would affect behavior.

Mr. HARRIS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Harris.

Mr. Albosta?

Mr. ALBOSTA. I feel something like the vulture who got there late and all he found was the bones. I do have one question, however.

Is there any way that the residents who are now Panamanians can come back to the United States and apply for citizenship and then possibly double dip the Federal Government by getting the early retirement and then going to work for the Government again?

Mr. CAMPBELL. If they were receiving Federal civilian retirement, there is an offset against any money earned as an employee of the Federal Government. In that sense, then, the situation you describe could not happen.

Mr. ALBOSTA. It could not happen with anyone else, either, then.

Mr. CAMPBELL. That is correct. There is an offset when you are receiving a civilian retirement and continue to work or go back to work for the Federal Government. There is an offset against your salary for the retirement.

The CHAIRMAN. Thank you, Mr. Albosta.

One question, Mr. Campbell. Your statement advised that article 10 of the treaty required early retirement. What is the effect of this? Should for one reason or another the committee not approve this, what would the effect be as regards the treaty?

Mr. CAMPBELL. I don't think I know the legal answer to that, Mr. Chairman. The treaty certainly requires an early retirement agreement. It was an agreement we made with the employee organizations that that be done. If it were not done I do not think it would void the treaty but I do not know.

The CHAIRMAN. Very well.

If there are no further questions, on behalf of the committee I want to extend our appreciation for your appearance. I regret the rather rocky start we commenced with today.

Incidentally, this is your first occasion before the committee with the title of Director as opposed to that of Chairman. Belatedly we take this occasion to congratulate you and wish you the very best as you proceed with the implementation of the Reform Act.

Mr. CAMPBELL. Thank you, Mr. Chairman.

The CHAIRMAN. We have a statement from Hon. Bill Alexander, which will be made a part of the record at this point as though read in full.

#### STATEMENT OF HON. BILL ALEXANDER

Mr. ALEXANDER. Mr. Chairman, I appreciate the opportunity to be heard at this hearing on title III of H.R. 1716, the Employees and Postal Matters title of the Panama Canal Treaty implementation legislation.

My purpose in testifying is to urge the subcommittee to include in its reported title the text of legislation which I, and our late

colleague Ralph Metcalfe of Illinois, introduced in the last Congress. The bill we introduced would amend the retirement provisions of title 5, United States Code, to include as creditable service for purposes of civil service retirement system certain periods of public school service outside of the Canal Zone by individuals who become subject to such provisions for public school service within the Canal Zone.

I would like to insert at this point in the record a letter I received from Mr. Russell Annis, a Canal Zone teacher who has been in Washington to seek this legislative request of Canal Zone teachers. I think his letter is a concise statement of the situation.

Mr. Chairman, I appreciate the subcommittee's time to bring this issue of paramount importance to Canal Zone teachers to your attention.

[The letter referred to follows:]

BALBOA, CANAL ZONE, *March 21, 1979.*

Hon. BILL ALEXANDER,  
U.S. House of Representatives,  
Cannon House Office Building, Washington, D.C.

DEAR BILL: The teachers of the Canal Zone are requesting that H.R. 1716, Title III, be amended to include a provision that would allow Zone teachers employed before the effective date of the new treaty with Panama to purchase retirement credit in their retirement plan.

To avoid narrow parochialism, good school systems recruit some of their teachers from different parts of the nation. To encourage experienced teachers to move to where they are needed, three fourths of all the states and the District of Columbia allow teachers to transfer some retirement credit from one state to another. The District of Columbia's approach is typical.

D.C. teachers may purchase up to ten years credit in their retirement system for previous employment in another public school system or its equivalent. They purchase at the rate current in the D.C. system at the time they were employed. They must pay interest on delayed deposits. They must work in the District one year for each year transferred.

The retirement purchase option allows the D.C. schools to recruit higher quality and more experienced teachers. It gives the teachers some degree of career mobility that partially compensates for the relatively lower salaries in the teaching profession. It helps the students to identify more readily with the nation rather than with their local region.

By mandate of Congress, wages and working conditions of teachers in the Canal Zone have been modeled after those of the District of Columbia. The retirement purchase option was not included. Meanwhile, other benefits that induced teachers to go to the Canal Zone have been reduced and are further eroded by the new treaty. Zone teachers are being transferred to the Department of Defense Dependents' Schools and are losing benefits of far more favorable D.C. salary and leave schedules, in spite of the "generally no less favorable" guarantee written into the treaty. This decline in benefits imposed on teachers (and not on other U.S. citizen employees remaining in Panama after the treaty goes into effect) could be partially negated if Canal Zone teachers were allowed to purchase retirement credit after the District of Columbia model before they join the Department of Defense Schools.

Advantages to all seem clear. Teachers, unlike other experienced Canal Zone employees, are not in short supply. To encourage some of them to retire would avoid a R.I.F. of the lower paid young teachers. Pupils would profit by retaining these younger teachers since an age-balanced staff is more effective. The Department of Defense would save money because Canal Zone teachers are paid considerably more than D.O.D.S. teachers. In some cases the Canal Zone teacher's retirement benefit plus a replacement's salary would be less than the full salary of the Canal Zone teacher! In most cases replacements would not be needed since enrollment is declining.

A large part of the costs would be paid by the teachers since this is a purchase plan. If the District of Columbia model were followed, the agency (in this case the Canal Zone Government) would make a matching contribution which would come out of Canal toll receipts. If the agency payment were judged unacceptable, the

teachers could be required to make the full 14% contribution. That is the case in one or two states though not D.C. policy.

It is difficult to estimate what additional costs for retirement with "buy-in" credit would be added to the administration of the Civil Service Retirement fund. Unofficial estimates run in the 300,000 to 500,000 dollar range. Such estimates may not include allowances for inflation. The costs would obviously depend upon how many teachers decided to purchase retirement credit and how many years of credit they decided to purchase. Only 400 people have previous creditable experience of at least one year. A number of those are not career teachers. They are army wives who will leave when their husbands rotate back to the states. A few of those 400 are temporary teachers but were included because they might be made permanent. Some teachers with only a few years service intend to leave and return to non-Federal jobs in the United States or to transfer to D.O.D.D.S. schools in Europe where, by agreements already worked out, Canal Zone benefits will not apply. A reasonable estimate is that approximately 200 teachers would purchase retirement credit for approximately five years previous service on the average. If all 400 purchased all the credit they were eligible for by the most generous interpretation of D.C. standards, they would pay in about two and a half million dollars, including interest. That would represent top liability to the Canal Zone Government for matching funds (but would not be a charge against U.S. taxpayers). Our government in H.R. 1716 envisions purchasing retirement credit for Panamanian citizens in the Panamanian retirement system with the Canal Zone Government paying both the agency and the employee contribution. It does not seem reasonable to reject the request of U.S. citizen employees for similar but far less generous assistance.

RUSSELL W. ANNIS, Ph. D.

The CHAIRMAN. We will recess the hearing until Thursday morning, March 15, at 9:30, at which time we will hear the remaining witnesses scheduled for today.

[Whereupon, at 5:45 p.m., the subcommittee adjourned.]





# IMPLEMENTATION OF THE PANAMA CANAL TREATY OF 1977

---

THURSDAY, MARCH 15, 1979

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,  
*Washington, D.C.*

The Committee met, pursuant to recess, at 9:35 a.m., in room 334, Cannon House Office Building, Hon. James M. Hanley (chairman of the committee) presiding.

The CHAIRMAN. Our hearing this morning is a continuation of hearings on H.R. 1716 and H.R. 111 providing for the implementation of the Panama Canal Treaties.

Under the procedure established by the Speaker, H.R. 1716 will be discharged from the committee by April 10.

Therefore, in order to provide ample opportunity for our committee to consider this legislation we will complete the hearings today and a bill will be on the agenda for the committee's consideration at our next regularly scheduled meeting, which will be March 28.

Our first witness this morning will be Mr. W. Allen Sanders, Acting Deputy General Counsel of the U.S. Postal Service.

## STATEMENT OF W. ALLEN SANDERS, ACTING DEPUTY GENERAL COUNSEL OF THE UNITED STATES POSTAL SERVICE

Mr. SANDERS. Thank you, Mr. Chairman.

I am Al Sanders, Acting Deputy General Counsel of the U.S. Postal Service. My appearance here today is in response to the request of the committee for a representative of the Postal Service to testify on the continuation of effective postal services in the Panama Canal Zone pursuant to legislation you are now considering to implement the recent Panama Canal Treaty.

I personally welcome the opportunity to testify on this subject, as it has a particular interest for me. Before joining the Postal Service in 1970, I was employed for 13 years as an attorney for the Panama Canal Company.

Section 341 of H.R. 1716, the administration bill, and section 341 of H.R. 454 are identical and the U.S. Postal Service has no objection to the enactment of the section. The provisions of that section were agreed to by the Postal Service in discussions with the State Department and the Defense Department. Sections 241 through 244 of H.R. 111 also deal with postal matters but are incomplete. The provisions of section 341 of the other two bills should be adopted in lieu of the postal provisions of H.R. 111.

In addition, your attention is invited to the title of H.R. 454 which inaccurately describes the postal provisions of the proposed legislation. The statement in the title that H.R. 454 provides for "the assumption by the U.S. Postal Service of the functions of the Canal Zone Postal Service" is somewhat misleading. In general, the effect of the treaty and the enactment of the implementing legislation will be to discontinue the Canal Zone Postal Service, transfer to Panama jurisdiction over postal matters in areas of the Canal Zone which will be returned to Panama, and provide for the operation of U.S. military post offices in those areas over which the United States will retain certain jurisdiction.

The U.S. Postal Service will have no responsibility to operate post offices or to provide any other postal services in the area. We will, of course, exchange mail with the U.S. military post offices and with the Republic of Panama.

The military post offices will be required to be operated in accordance with U.S. domestic postal laws and the regulations and policies of the U.S. Postal Service. We work very closely with the Department of Defense in regulating the operation of military post offices in overseas areas. accordingly, based on this close cooperation, we have every reason to expect that the military post offices in Panama, as elsewhere, will continue to provide effective Postal Services.

There is one minor technical drafting error in section 341 of H.R. 1716 that I should call to your attention. Section (e)(2) of that section would repeal subsection (b) of section 3402 of title 39, United States Code, without eliminating the designation of the remainder of the section as subsection (a). One way of dealing with that problem would be to repeal all of section 3402 since that section, as it would be amended by H.R. 1716, would merely state the truism that each military post office in Panama shall be considered to be an Armed Forces post office established in an overseas area.

This concludes my statement. I would be glad to try to answer any questions you may have.

The CHAIRMAN. For the committee will you describe the relationship between the U.S. Postal Service and the Panama Canal Zone Postal Service at the present time and what steps the Postal Service will take to ensure the continuation of effective service.

Mr. SANDERS. At the present time, Mr. Chairman, the Canal Zone Postal Service is a completely separate organization from the U.S. Postal Service. The Canal Zone Postal Service is part of the Canal Zone Government. It is established by the Canal Zone Code of Laws enacted by the Congress as a separate postal service.

The only formal connection that the U.S. Postal Service has with the Canal Zone Postal Service is that we are responsible for the negotiation of international agreements affecting the Canal Zone Postal Service.

As a practical matter, however, over the years we have worked very closely with the Canal Zone Postal Service. Under the legislation enacted by the Congress, the Governor of the Canal Zone is authorized to adopt the U.S. postal regulations and policies, and he has done that for the most part.



The Canal Zone Code also provides that the U.S. domestic postage rate will apply with regard to mail exchanged between the United States and the Canal Zone.

The Canal Zone, though, is a separate administration. It issues its own postage stamps, for example. At the present time we have no formal control over that operation.

We did work very closely with the State Department and the Defense Department in drafting the postal provisions of the administration bill, H.R. 1716. We are confident that effective postal services will continue in the area.

The CHAIRMAN. On the basis of what you have said, the accurate conclusion with respect to the assets of the Canal Zone Postal Service will be that they are, in effect, the assets of the Canal Zone Company; is that correct?

Mr. SANDERS. The Canal Zone Government, to be exact.

The re are two organizations, the Panama Canal Company, which is a Government corporation, and the Canal Zone Government. The Canal Zone Postal Service is part of the Canal Zone Government which is a U.S. Government agency, an independent agency separate and apart from the U.S. Postal Service.

The CHAIRMAN. Would you be in a position to provide me with an estimate of worth with respect to those assets?

Mr. SANDERS. The assets? We do not have any formal control—

The CHAIRMAN. I did not mean that.

Mr. SANDERS. I would certainly be glad to ask the Canal Zone Government for that information.

A representative of the Canal Zone Government is here today and perhaps he would be the best source of that information.

The CHAIRMAN. I will withdraw that question, then.

As you say, a subsequent witness hopefully will be able to provide that information for the committee.

Mr. Wilson?

Mr. WILSON. Thank you, Mr. Chairman.

Mr. Sanders, the Canal Zone Postal Service, the employees there are employees of the Canal Zone Company?

Mr. SANDERS. That is correct.

Mr. WILSON. Is it reasonable to assume that they will probably be the types of employees who will be left without job opportunities after October 1?

Mr. SANDERS. It is my understanding, Mr. Wilson, that at least some of them will be working in the military post offices that will be operated in the Canal Zone. We have had some informal discussions in which I participated with the representatives of the Canal Zone Government about that.

We have worked out some arrangements with the Canal Zone Government so that individuals who are interested in transferring to the U.S. Postal Service can have their applications considered. Some of them are very experienced postal employees, and if we can absorb them into the operation of the U.S. Postal Service we will be glad to have those experienced employees.

Mr. WILSON. I have talked to several postal employees there. One young man, who has a supervisory job, said the only thing that he was promised by the Postal Service would be a job with a salary below what he is now making.

In fact, it would not be a supervisory job but it would be a low level clerk's job. Then even that would be a probationary job, not a permanent job. That certainly will not be any incentive for this employee.

I asked this individual to write to me and set forth his background and all the facts with regard to this matter so I can take it up with the Postal Service.

Is there a likelihood that that is an accurate story?

Mr. SANDERS. I don't know anything about the specifics of that individual case, Mr. Wilson.

What we have done is this: We had some discussions with representatives of the Canal Zone Government. We published in the Postal Bulletin a notice which I think was circulated in the Canal Zone that applications, even at the present time before the implemented legislation is enacted, would be considered and given some special consideration. They were to make their applications to the regional Postmasters General in our five regions.

What actually has taken place in the way of specific applications I am not aware at this moment. If you do get information regarding that specific individual we would certainly be glad to follow it up for you.

Mr. WILSON. How many of the postal employees do you think will be absorbed by the military? Do you know? Has any survey been made.

Mr. SANDERS. Not that I am aware of.

We had several discussions with them. The situation was so uncertain at that time that they could not give us that specific information. I assume that until this implementing legislation is enacted there are still a considerable number of uncertainties.

It is my understanding that many of the employees are sort of uncertain with regard to their status and that is one of the reasons they are very anxious that this implementing legislation be promptly considered.

Mr. WILSON. You told us there would be no break in service and you felt the civilian employees would stay on as long as the military gets just as good service as they are now getting. They are very pleased with the service they are getting.

Yet, is it not true that on October 1 three or four of your post offices will be closed?

Mr. SANDERS. It is my understanding that some of the existing post offices of the Canal Zone Government, the one in Balboa and the one in Cristobal, will be turned over to the Republic of Panama. That is my understanding. I assume that those post offices will be operated by the Republic of Panama.

Then, of course, there will be military post offices which will be opened there and available to the military personnel.

Then, for a period of 5 years, as I understand it under the implementing agreements, the employees of the Panama Canal Commission, the present civilian residents of the Canal Zone, will be entitled to use an APO address. They will be entitled to use the military post offices.

Mr. WILSON. That lasts for only a 5-year period; is that correct?

Mr. SANDERS. Yes, sir.

Mr. WILSON. They will have to use Panamanian post offices after that; is that correct?

Mr. SANDERS. That is my understanding.

Mr. WILSON. What is the record of the Panama postal system? Is it a good system or is it typical of many of these other foreign systems we see around the world?

Mr. SANDERS. I am not certain that I am the best witness on that point, Mr. Wilson.

When I lived in the Canal Zone—it has been 9 years since I was there—but for the 13 years I lived there many residents of the Republic of Panama used the Canal Zone postal system. In a general manner the Canal Zone postal system had a better reputation than that enjoyed by the postal system in the Republic of Panama.

Mr. WILSON. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Crane?

Mr. CRANE. Can you tell me approximately the number of People employed by the Panama postal system who might possibly be without a job?

Mr. SANDERS. I just can't answer that question, Mr. Crane.

As I said earlier, when we were discussing the matter with representatives of the Canal Zone Government, they could not give us at that time any specific numbers of people who might be losing jobs. One of the reasons is that a relatively large number, and I cannot give you the specific figures, of the employees of the Canal Zone Postal Service are citizens of the Republic of Panama. I would assume that those individuals would not be interested in seeking jobs in the United States.

The CHAIRMAN. Thank you, Mr. Crane.

Mr. Clay?

Mr. CLAY. I have no questions, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Clay.

Mr. Courter?

Mr. COURTER. Thank you, Mr. Chairman.

I have just a simple question basically requesting your opinion.

In your professional opinion do you feel that the postal service of Panama will deteriorate? If so, how do you feel about implementing this treaty?

Mr. SANDERS. The U.S. military postal system will continue to provide basically the same services in that area, at least for a period of time for the individuals there.

Based on our experience in working with the U.S. military postal system we have every reason to be confident that the postal service will be effective and good service will be provided in the future.

Mr. COURTER. Do you know the rate for mailing a letter from the Panama Canal Zone to some other point in Panama?

Mr. SANDERS. The statute provides, Mr. Courter, that the U.S. domestic postage rates apply to the exchange of mail between the United States and the Canal Zone. You can mail a letter for 15 cents to the Canal Zone today. If you mail it to the Republic of Panama, the international postage rates apply.

At least when I was in the Canal Zone there was a special rate for the transmission of mail between the Canal Zone and Panama. That involves just sending it across the street, so to speak.



I am not certain as to what the arrangement will be which will be worked out in the future in that regard. I assume that the international postage rates will apply regarding the transmission of mail between the areas in the Canal Zone and the Republic of Panama. However, I am not certain about that point because that is a matter which I assume would be worked out in negotiations between the Panama Canal Commission and the Republic of Panama.

We do not have a formal part in that.

Mr. COURTER. You do not think it is important for any type of administrative legislation to address itself to that particular question regarding the cost of postal service to the individual for mailing a letter?

Mr. SANDERS. No, I would think not, Mr. Courter.

Postage rates, you know, are now fixed domestically on an administrative basis by going to the Postal Rate Commission. Since things change from time to time I think it would work out a lot better if it were something handled administratively rather than by legislation.

Mr. COURTER. I can understand that.

Do you know which entity will in fact determine the rates within the Panama Canal Zone, for example, and which organization or entity will determine the rate between what is now the Panama Canal Zone and, for example, the continental United States?

Mr. SANDERS. Yes.

In the U.S. military system the U.S. domestic postage rates apply. For postage rates between the United States and the APO in the Canal Zone, which people will be entitled to use there, the same rates will continue to apply.

In other words, after October 1 you still will be able to mail a letter to that area for 15 cents.

Otherwise the international postage rates will apply, and those are negotiated by the United States pursuant to international agreement.

The only exception to that I am not absolutely certain of is whether there might be some special arrangement with regard to the local transmission of mail between the Canal Zone area and the Republic of Panama.

My colleagues in the Defense Department will be better witnesses on that point.

Mr. COURTER. Are you saying that the cost of mailing a letter from the continental United States to the Panama Canal area is not going to go up after the implementation of this legislation?

Mr. SANDERS. No, sir, it will not.

As a matter of fact, in some areas I assume that the postage rates will decrease for some of the people located there. For example, as you know, under the United States Code there is what we call the SAM/PAL provision with respect to packages sent to people overseas. Since these people will be entitled to use the APO system they will be entitled to use those reduced SAM/PAL rates, as I understand it.

Mr. COURTER. Thank you.

The CHAIRMAN. Thank you, Mr. Courter.

Mr. Taylor?

Mr. TAYLOR. I have no questions.

The CHAIRMAN. Mr. Sanders, because of your personal knowledge of the Canal Zone can you advise the committee of any particular postal problems which we should consider at this time in the process of developing this legislation?

Mr. SANDERS. I am not aware of any specific problem, Mr. Chairman. There is a difference, as I pointed out in my prepared statement, between the administration bill and H.R. 111, which I understand is the bill Mr. Murphy introduced, with regard to postal matters.

In my statement I say that the administration's bill is more complete. What I meant by that is that the administration bill has in it amendments to title XXXIX of the United States Code, with which you are well familiar, which are necessary to avoid confusion in the future. I think that those amendments should be included in whatever legislation is enacted.

There are provisions in Mr. Murphy's bill, H.R. 111, which deal specifically with the handling of some of the assets of the Canal Zone Postal Service, the funds of the postal savings system there, which would do that in a different manner from the administration bill.

Since the U.S. Postal Service is not directly responsible for or involved in that we have no specific recommendation on that other than I think the administration bill is satisfactory in that regard.

The CHAIRMAN. If there are no further questions, on behalf of the committee, Mr. Sanders, our appreciation for your appearance here this morning. We are most appreciative.

Mr. SANDERS. Thank you, sir.

The CHAIRMAN. Thank you.

Our next witness will be Mr. Michael Blumenfeld, Deputy Under Secretary of the Army.

Secretary Blumenfeld, we are delighted to have you with us this morning.

**STATEMENT OF MICHAEL BLUMENFELD, DEPUTY UNDER SECRETARY OF THE ARMY; ACCOMPANIED BY COL. MICHAEL RHODE**

Mr. BLUMENFELD. Mr. Chairman and members of the Post Office and Civil Service Committee, I appreciate the opportunity to appear before you this morning to present testimony on title III of H.R. 1716, a bill to implement the Panama Canal Treaty of 1977 and related agreements.

One of the most important sections of the implementing legislation is title III, that portion setting forth the provisions affecting employees of the Panama Canal Company, the Canal Zone Government, and certain other executive agencies operating in the Canal Zone. Further, title III also establishes a framework for employees of the Panama Canal Commission effective on October 1, 1979. The employees of the Canal Zone Government and the Panama Canal Company are dedicated, loyal personnel who, for a number of years, have made the canal an extremely efficient operation serving world commerce. The legislation, as it concerns these employees is what I wish to speak about today.



With the requirements of article X of the Panama Canal Treaty in mind, the administration's implementing legislation was drafted and introduced as H.R. 1716.

I am sure you were made aware during your visit to the Canal Zone of the importance attached by the canal workforce to the early retirement benefits contained in both bills. These provisions would allow employees who are involuntarily separated or scheduled to be separated as a result of implementation of the treaty to retire under more liberalized eligibility criteria than are normally available under a major reduction-in-force situation. For example, instead of requiring 25 years of service at any age or 20 years at age 50, with reduced annuity for each year the employee is short of age 55, the legislation would require 20 years of service at any age or 18 years at age 48, without any reduction in annuity because of the age at which the employees retire.

More important to the agency and its employees, however, are those provisions which would recognize the impact of the treaty on living and working conditions by granting a continuing option, throughout the life of the treaty—that is, through 1999—for employees—U.S. and non-U.S. citizens alike—to retire voluntarily under similar liberalized eligibility criteria. It may seem at first glance paradoxical, but we are convinced that retention of skilled U.S. employees who will be needed in the coming years will be enhanced by the provisions we have proposed for liberalized eligibility and benefit computation under voluntary early retirement. Under this proposal, an employee could retire voluntarily any time after he attains 23 years of service regardless of age, or after reaching age 48 and 18 years of service. Again, there would be no reduction in annuity because of the age at which the employee retires. Employees electing to stay on, with the Commission would have their annuities computed at 2½ percent for each year of post-treaty service rather than the normal rate.

While the Office of Personnel Management has authorized early optional retirement for canal workers under existing major RIF provisions, the employees must exercise that option, if at all, between April 1 and September 30, 1979. Because the option is available only prior to treaty effective date it will not contribute to the retention or our workforce beyond October 1.

Some perspective on the numbers involved in the early retirement proposal might be helpful.

Let me say that within the canal enterprise, and that combines the Panama Canal Company and the Canal Zone Government, there would be approximately 4,300 employees eligible for the early retirement under the major RIF that will be declared. There will be approximately 5,300 eligible under the Administration's proposed early retirement provisions, so the difference is about 1,000 employees who would gain eligibility through the administration's provisions versus the provisions of a major RIF as it now stands.

Many canal employees, as you know, and as was discussed here on Monday, consider the early retirement provisions of the treaty legislation to be the most important part of it, and a good portion of our employees are deferring their decisions as to their futures until they know what will be provided on that subject.



We have high hopes that the continuing option feature, that is, the fact that the option to retire under the liberalized eligibility and calculation criteria I have outlined will remain open throughout the life of the treaty, will cause the great majority of the employees to stay and give it a try with the Commission.

If we are correct in that assessment, this should afford an opportunity for officials of the Commission and the Government of Panama to prove that transfer of jurisdiction can be effected without the kind of adverse consequences which have worried canal employees.

Assuming this can be done, and we are optimistic in this regard, then it is our view that this early retirement option will do more than any other single feature of the legislation toward maintaining a skilled work force at the canal.

If, on the other hand, the legislation were to be enacted with a significantly less liberal version of the early retirement option in it, we also believe that the canal's ability to retain needed skilled help would be very seriously curtailed.

We believe these provisions are required to fulfill the commitments of the treaty and, at the same time, protect the interests of the United States.

It is also our position that the differential we are authorized to pay for recruitment and retention of employees from off the isthmus be continued. Under H.R. 1716, the maximum differential authorized would be 25 percent which is the same for the current tropical differential. Under 1716 this differential would apply to all employees so recruited, regardless of citizenship. While, in accordance with article X of the treaty, the Commission will endeavor to employ Panamanians provided they have the requisite skills to meet our requirements, we foresee a continuing need for a skilled U.S. workforce at the canal for some time to come. This differential has proven to be an effective tool for recruitment and retention of qualified employees over the years, and we expect it will be an important one for the Commission.

In the area of the health care for our employees, we see no diminution of benefits from those currently received. The Department of Defense will assume responsibility of continuing the health care function, and Army will assume operation of the hospitals on October 1, 1979 with a patient load of authorized medical beneficiaries of approximately 90,000 personnel.

As you are aware, the Department of Defense will also be assuming responsibility for operation of the schools system effective October 1 when the treaty enters into force.

Because the Department of Defense Dependent Overseas School System pay scales are significantly lower than the Canal Zone Government scale, the Defense Department, the American Federation of Teachers and the Department of the Army have agreed on a system to phase transferring teachers into the DOD pay system over time. These teachers will retain their base salary schedule as it exists on the effective date of the treaty until the Defense School salary schedule rises to meet it. But, to avoid a pay freeze, their retained base salary will be increased by one-half of the dollar amount of the annual salary increase for the same class and step.

They will also be given their normal step increases on the retained schedule. We believe this to be a fair and equitable agreement.

In the area of the labor relations system that will apply under the treaties, there has been substantial consultation between the administration and the unions representing our workers—both on the national as well as the local level. We are continuing this consultation process in the development of a labor-relations system for the Panama Canal Commission after October 1, 1979, including collective bargaining with employees as required by the treaty.

On the topic of the labor relations, the administration's bill proposes that all employees of the Panama Canal Commission, both U.S. and non-U.S., be covered by a labor-management policy tailored to meet the needs of the unique situation in Panama, but consistent with certain basic protections and benefits in title VII. U.S. employees of other Federal agencies operating in the area, principally DOD, would be covered by the Federal labor-management relations program enumerated in title VII, Civil Service Reform Act, while the heads of these agencies would be given the option to place their non-U.S. employees under the Panama Canal Commission's labor-management program.

The Panama Canal Commission is a unique organization, with a work force which will become increasingly Panamanian at all levels over the next 20 years. A labor relations system focused largely on local conditions and issues would be most appropriate in terms of facilitating—or at least avoiding interference with—the gradual transition to Panamanian control of canal operations. Coverage by a separate labor relations policy, dedicated to the local situation, will serve to facilitate the evolutionary process which will be taking place.

Such a process is not foreseen, however, for DOD elements in Panama, which will operate in much the same matter as they do today until phaseout of their operations.

In all other areas of the world, DOD is applying the collective bargaining provisions specified in title VII of the Civil Service Reform Act to its U.S.-citizen employees and we believe that this should also be the case for the U.S. employees of DOD in Panama and indeed is the kind of arrangement contemplated by the status-of-forces agreement.

Because of the great decrease in the size of the Panama Canal Commission in comparison to the present Panama Canal Company and Canal Zone Government, we have projected that some 2,600 employees, both U.S. and non-U.S., will lose their jobs through a reduction-in-force action. This action, however, will be partially offset by an estimated 1,550 retirements occurring at the same time. Due to the size and complexity of this action, and in consideration of its impact on the lives of employees and their families, we ask passage of H.R. 1716 by May 31 so that critical preparatory actions can be completed by treaty effective date.

From an operational point of view, the most critical problem that will develop by late passage of the proposed legislation involves the transfer of over 3,000 employees to local Department of Defense activities. If passage is unduly delayed, this transfer would be seriously hampered because of the lead time required by law and



regulation to effect such actions and to guarantee observance of employee rights.

If passage is delayed beyond October 1, the transfers will be prevented because the Department of Defense activities will not have been legally authorized to pay the transferred employees from appropriated funds for performance of functions they are scheduled to assume. This would cause transferred employees to be left on the rolls of the canal organizations, although that agency would be precluded by the treaty from performing those functions.

Mr. Chairman, this would be chaotic, not only for the Commission but for all Federal agencies operating in the area.

In conclusion, Mr. Chairman and members of the committee, H.R. 1716, among other things, maintains the terms and conditions of employment as specified in the treaty, provides the required early retirement program, and allows for the formulation of a labor-management system tailored for the unique situation found in the Canal Zone.

I will now respond to any questions you might have.

However, if I may, I would first like to clarify and add to some of the information discussed on Monday and again here this morning.

First, we will be able to provide for the record the value of the physical assets of the Canal Zone postal system. I do not have it with me but we certainly can provide it.

The CHAIRMAN. The committee would appreciate your doing that. [The information follows:]

The net book value, at January 31, 1979, of the physical assets of the Canal Zone postal system is \$288,000.00.

Mr. BLUMENFELD. With respect to the employees in the Canal Zone postal system, let me say there are approximately 120 such employees today. About 100 of those 120 will transfer to DOD. We anticipate that most, if not all, of the balance of about 20 employees will be eligible to retire.

In net, then, we do not at this time see a job loss eventuating from the divestiture of the postal system on October 1.

If I may, let me clarify several other issues where the committee is looking for further information after the Monday hearing. One is the issue of Panamanian preference in hiring which is required by the treaty.

Let me make clear that that preference does apply only to hiring. It does not apply to promotion. I think there might have been some uncertainty in the minds of the committee members on Monday as to the application of that preference provisions. It applies only to initial hiring.

A second question which I think deserves an answer is what the basis is for the RIF of about 2,600 employees which will take place on October 1. Is it the case that these are employees whose services are really superfluous to the Commission of the current Canal Zone Government and Panama Canal Co.? No, not at all.

The reason for the RIF of 2,600 is basically because of the transfer of functions that will take place, a loss of functions now performed by the Company and Government and which, under terms of the treaty, will no longer be performed. I refer to such areas as



the operation of ports and terminals, railroads, and various commercial activities.

Another question that had come up was whether there might conceivably be an overload of the displaced employees program through the level 1 priority assigned to those who involuntarily lose their jobs as a result of the treaty.

Let me point out that, as the placement system is contemplated, there are only about 300 U.S. citizen employees among the 2,600 who will be RIF'd who would be getting that priority 1 level of placement assistance. So I do not believe it is a figure that will overload the system.

A question also came up on Monday regarding the pilots who are, of course, very vital to the operation of the canal. I would like to make a few comments on the pilot situation and whether, indeed, we are making it too attractive for pilots to leave and to retire.

I do not think we are. For one thing, the pilots tend to be a little younger and probably not as close to the retirement age as other classes of employees.

Second, the Company conducted some months ago a poll of pilot intentions. While, of course, polls are notably unreliable I think in this case the conclusion that relatively few plan to leave if the situation remained attractive down there was an encouraging finding of that poll.

We also have introduced, as of February, a new system under which pilots can work with the option of alternating periods on the Isthmus and back in the States. So, if I remember correctly, they can be on duty for 6 weeks and off for 4 weeks. Many pilots indicate this is an attractive way to continue to work for the Company in the post-treaty environment, and have they already gone to that in the pretreaty environment.

Finally, though I will not try to anticipate all the questions that will come up this morning, I would like to speak about the special immigration provisions for a moment.

The question came up on Monday as to whether the special immigration provision applied only to West Indians, and there was some discussion of that. The concern and the need for special immigration is focused on the West Indians; but it is difficult, if not impossible, to write legislation which will specify ethnic descent of employees. The focus was really on the problem of people we felt were the least assimilated into Panamanian culture and Panamanian society. But the coverage of the proposed legislation is broader than simply the West Indians.

The public charge waiver which we are proposing in the legislation is merely to permit the exercise in fact of the special immigration rights which would be given in theory by the legislation.

The average annuity of retirees who have greater than 15 years of service is about \$400 a month. Were we not to waive for the transition period the public charge provision of the immigration law larger numbers of those we wish to make eligible by this provision would be de facto unable to exercise their right because of the income limitations.

I have, and I can insert in the record, figures on our estimate of the numbers of people who would be eligible under the special immigration provisions which we have recommended.

I think those are the key questions I wanted to be sure I got a chance to clarify and expand upon. I appreciate the committee's time in listening to those amplifications.

I will be prepared for questions.

The CHAIRMAN. Thank you very much, Mr. Secretary.

At this point I will ask Mr. Wilson to proceed inasmuch as he has another hearing to attend.

Mr. WILSON. On page 5 of your statement you say:

In the area of health care for our employees, we see no diminution of benefits from those currently received. The Department of Defense will assume responsibility of continuing the health care function, and the Army will assume operation of the hospitals on 1 October 1979 with a patient load of authorized medical beneficiaries of approximately 90,000 personnel.

My understanding is that after the first 5-year period all civilian employees will not have the military hospital benefits any longer. Is that true? They will have to use whatever facilities are available?

Mr. BLUMENFELD. There are two time periods involved. One is at the end of the transition period, when the Panamanian employees of the Commission would no longer be eligible for benefits.

Mr. WILSON. That is October 1?

Mr. BLUMENFELD. No, sir; 30 months after October 1.

As far as health care after the first 5 years—Colonel Rhode?

Colonel RHODE. Health care will continue for the U.S. citizens during the life of the treaty.

Mr. WILSON. That would apply only to the veterans, would it not, U.S. citizens or veterans?

Colonel RHODE. That would apply to U.S. employees of the Commission, regardless of whether they are veterans.

Mr. WILSON. You mentioned there would be a transfer of about 3,000 employees?

Mr. BLUMENFELD. 3,000 or 3,200?

Mr. WILSON. That is one of the reasons you give for speedy action on this legislation.

Has the Armed Services Committee been given this figure of 3,000 to include into their manpower figures to your knowledge?

Mr. BLUMENFELD. To my knowledge the fiscal 1980 DOD request should reflect the transfer of that number of employees.

Mr. WILSON. Constraints are quite severe with regard to manpower. I have heard no discussion of those figures, but unless that is taken care of you can run into problems there. The tendency is to reduce manpower figures rather than to add.

Inasmuch as you are a representative of DOD, has the administration made any decisions as to whether they will restore at least the one military base. Does the Panamanian Government insist we rebuild the barracks and fix them up as they were?

Mr. BLUMENFELD. I believe you are referring to the disused naval facility at Coco Solo?

Mr. WILSON. Yes.

Mr. BLUMENFELD. There is no such intent for use by the United States of that facility which has not been used for a number of years.

Mr. WILSON. It will be turned over as it is?

Mr. BLUMENFELD. There are—

Mr. WILSON. I certainly hope we will not get involved in a lot of military construction work with regard to these barracks and buildings which have become dilapidated because of lack of use.

Mr. BLUMENFELD. I believe there is no intent for a restoration of buildings such as the naval facility you describe. In terms of the more or less routine caretaking which takes place, I cannot comment on the exact level of that and what it will be between now and October 1.

However, I would anticipate no major activity in that regard.

As you well know, this has been discussed with the Panamanians. The Company is now, as a matter of fact, inventorying all of the property which will go to Panama and documenting the condition of each.

Mr. WILSON. You are not able to tell us today as to whether any definite decision was made?

Mr. BLUMENFELD. I can tell you there is no major renovation work which is contemplated. I cannot tell you what routine caretaking is contemplated. I cannot specify the level at which it is today, the level it was last month, and the level it will be next month.

I would anticipate no major work will be necessary at that facility.

Mr. WILSON. Thank You, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Wilson.

Mr. Secretary, you alluded to the dual labor relations setup. You mentioned "the kind of arrangement contemplated by the status-of-forces agreement."

Can you expand upon that for me, please?

Mr. BLUMENFELD. Basically the kind of arrangement that is called for in article IV of the treaty, and under which DOD operates in other parts of the world, vis-a-vis its U.S. employees and vis-a-vis its foreign employees. There is a joint committee created under the treaty to deal government-to-government on the labor provisions by which foreign nationals work for DOD as in other countries. These would apply to Panama.

The CHAIRMAN. Does the treaty require this?

Mr. BLUMENFELD. The treaty incorporates language which is generally similar to status-of-forces agreements throughout the world.

The CHAIRMAN. In your judgment should that have any effect on our deliberations here?

Mr. BLUMENFELD. I think the effect on your deliberations ought to be, in my view, to conclude that the arrangements to be made in labor relations for the Commission should reflect a more unique set of circumstances than the arrangement for DOD.

As I tried to say in my statement, we think the Commission is an evolving kind of agency. DOD is not so. DOD will be operating in much the same way throughout its presence in Panama as it has in the past.

DOD employees are not second and third generation, as are many of the Canal Zone Government and Company Employees. DOD would not have the same transition to Panamanian management as the Company will have.



The net effect of this is that DOD should work much like DOD works in other parts of the world, and there is no unique need in DOD as in the commission.

The CHAIRMAN. On the issue of labor relations, you point out that DOD employees remaining in the Zone will be covered by title VII.

Mr. BLUMENFELD. U.S. employees?

The CHAIRMAN. While other employees transferred into the new Panama Canal Commission will be covered by the proposed system which ultimately would be established by Executive order?

Please expand upon this and perhaps advise us with respect to the justification for the difference.

Mr. BLUMENFELD. I am not sure I follow your question, sir.

Our proposal is that U.S. DOD employees be under title VII and that the labor relations system we propose for the Commission be usable by the non-U.S. employees of DOD at the option of the commander of those forces.

The CHAIRMAN. Is there not a great deal of opposition there to this?

If I recall correctly, while we were there it seemed to me that much in the way of opposition to this differential was voiced. Am I not correct?

Mr. BLUMENFELD. There are a number of points of view among the employees and among the unions which represent them. They are conscious of opposition to various types of differences, differences by nationality, differences by agency.

In my own personal experience in discussions with labor representatives, I think I am persuaded that the difficulties in distinctions by nationality are more severe than the difficulties in distinctions by agency.

The CHAIRMAN. Again it is a little difficult to understand why we would deny the U.S. citizen coverage under title VII at the same time we are encouraging that citizen who has possibly 21 years.

Mr. BLUMENFELD. The kind of labor relations system we have in mind is a labor relations system that would be parallel to title VII. The same kinds of protection would be involved.

In fact, we would propose the identical, or essentially identical, treatment of such items as exclusive recognition, bargaining unit determination, union dues allotments, grievance and arbitration procedures, and the savings clause. These are very similar to the items in title VII and, indeed, our proposal calls for an exact incorporation of sections from title VII with regard to employees rights, management rights, unfair labor practices, standards of conduct for labor negotiations, and official time.

The CHAIRMAN. I think for the benefit of the committee it would be well that the alternative be detailed to us so we have a clear picture and would be in a better position to make a judgment.

I read from the text here:

The administration's bill proposes that all employees of the Panama Canal Commission, both United States and non-United States, be covered by a labor-management policy tailored to meet the needs of the unique situation in Panama, but consistent with certain basic protections and benefits in title VII.

I think this is a very important area. We certainly do not want to put in concrete something that jeopardizes the well-being of a certain category of U.S. citizen employees there.

Therefore, I would appreciate it if you would detail for the committee what the alternative is.

Mr. BLUMENFELD. I can certainly provide the committee with a draft version of the labor relations system which we had envisaged as being the system to apply to the Commission and to the non-U.S. employees of DOD.

I have tried to indicate that it is identical with title VII in some respects and is close to it in many other. But I can provide the committee with an actual draft of the system.

The CHAIRMAN. If I might go back to my basic question, what is the justification for excluding that category from title VII?

Mr. BLUMENFELD. Basically it was the desire not to divide by nationality within the Panama Canal Commission. Further it reflects the differences that will inevitably occur on the Isthmus versus the United States and gives some flexibility for the decisions that will come out in arbitration of grievances and various other areas of the normal working labor relations system. Decisions are bound to be different because of the situation on the Isthmus. Rather than perhaps locking into precedents that the Federal Labor Relations Authority in U.S. cases may establish, which they may be irrelevant to the situation on the Isthmus, the proposed policy gives some flexibility but still does it within a context that preserves all of the rights title VII provides.

The fundamental difference is that instead of cases going up through the FLRA channel cases would be settled with a labor relations board established for the Isthmus.

The CHAIRMAN. This difference bothers me and we shall continue to take it up for advisement.

Mr. Taylor?

Mr. TAYLOR. Mr. Secretary, I believe you said that on October 1, the Defense Department will assume responsibility for operation of the schools. Is that true?

Mr. BLUMENFELD. Yes.

Mr. TAYLOR. How does this relate to the School for Americans down there?

As I recall there was some concern as to what the future of the Schools for Americans will be.

Will this responsibility be assumed by DOD?

Mr. BLUMENFELD. The DOD responsibilities I have discussed are educational services for employees and dependents and have nothing to do with the School of the Americas whose future will be worked out within the next couple of years by the United States and Panama. That future is an open issue at this point which will require further discussion.

The educational services I refer to excludes the School of the Americas.

Mr. TAYLOR. There has been no commitment made for that school, then?

Mr. BLUMENFELD. Nothing definite.

Mr. TAYLOR. Mr. Secretary, do you have any idea as to what the value of the military installations is which we will be ceding over to the Republic of Panama?

Mr. BLUMENFELD. I can certainly get that for the record.

Mr. TAYLOR. I would appreciate that information.

The CHAIRMAN. Without objection, it is so ordered.

[The information follows:]

The approximate acquisition cost and improvement of military facilities to be turned over to the Republic of Panama is as indicated below:

*Treaty Day*

Fort Amador (barracks, administrative headquarters, maintenance), (family housing) .....	\$2,240,000
Albrook East (administrative, maintenance, utilities), (including PAD) ...	5,040,000
Quarry Heights (family housing) .....	83,000
Curundu Heights .....	120,000
Total Treaty Day .....	7,483,000

*In 3 years*

Curundu Heights (family housing) .....	840,000
Fort Gulick (barracks) .....	800,000
PAD (all facilities, except Px facilities) .....	5,600,000
Total .....	7,240,000

*In 5 years*

Fort Gulick (barracks, administrative, storage, maintenance) .....	8,039,000
France Field (family housing) .....	270,000
Total .....	8,309,000

Total military facilities to be turned over with a special time commitment .....	23,032,000
Total military facilities to be turned over sometime during life of treaty <sup>1</sup> .....	42,200,000
Total military facilities in Canal Zone <sup>1</sup> .....	398,427,000

<sup>1</sup>Cumulative.

Mr. TAYLOR. What are our plans between now and the time of the transition for renovation of property? Will we be spending money on this property before the transfer is made?

Mr. BLUMENFELD. I would anticipate—

Mr. TAYLOR. Capital improvement or major renovations?

Mr. BLUMENFELD. I would anticipate that generally the level of maintenance on properties to be turned over would be no less than we would have been doing were they not to be turned over.

I can speak with more knowledge with regard to the Panama Canal Company capital program than the DOD program at this moment.

There had been a number of capital projects which had been planned for facilities which, when it became clear that these facilities were being transferred, the capital improvement or expansion plans were curtailed.

As a general rule I would say there would be no less a level of maintenance on property which will be transferred.

Mr. TAYLOR. I believe in our briefing it was indicated there would be testimony before the Armed Services Committee asking



for additional funds needed to replace property which will be involved in the transfer. As I recall it was about a quarter-million dollars which would be requested by DOD to replace property which needs to be funded so DOD can carry out its function.

Is this your understanding of what it would cost?

Mr. BLUMENFELD. If you can wait one moment I might be able to help you on that.

Let me provide it for the record.

The form in which I have it here is not exactly responsive to your question.

Mr. TAYLOR. I would appreciate that information.

The CHAIRMAN. Without objection, it is so ordered.

[The information follows:]

The estimated cost of construction/rehabilitation required to permit treaty related relocations in fiscal year 1979 is \$40.6 million. Of this requirement, \$10.9 million was certified by the President as essential to national interests and authorized for accomplishment on 8 November 1979 utilizing SecDef contingency funds. The remainder (\$29.7 million) required for treaty implementation is included in the fiscal year 1979 Budget Supplemental. Approximately \$6.0 million is programmed in fiscal year 1980 for (1) expansion of personnel support facilities at Howard AFB incident to the relocation thereto of the Army's 201st Avn Bn in fiscal year 1979, (2) relocation of Defense Mapping Agency activities and medical warehouses from Albrook Air Station, as required by the treaty, within 18 months following its ratification, and (3) relocation of the Air Force's transmitter site from Curundu to Howard AFB not later than 1 October 1982. Approximately 26.3 million in other construction requirements for fiscal year 1981-84 has been tentatively identified to support other time-phased treaty-directed requirements. These and other requirements will be validated by a recent DOD initiative—the commencement of a regional complex master plan to ensure optimum restructuring of DOD installations consistent with treaty requirements and remaining tenure. Thus, the total MILCON cost related to military relocation is \$72.9 million.

Mr. TAYLOR. In the transfer of the 3,000 employees to the local Department of Defense activities you indicated would be necessary if this legislation is passed, what will be the function of these employees who will be transferred to DOD?

Mr. BLUMENFELD. They will work in schools, hospitals, commissaries, and in military post offices.

Mr. TAYLOR. They are people whose expertise already is in this field and they will be moving over within a field in which they are already skilled? Is that true?

Mr. BLUMENFELD. I would say it is generally true, although I suppose that because of the intricacies of bumping procedures there may be some mismatching. I should not think that would be a major factor.

I would think in general terms the answer to your questions would be yes.

Mr. TAYLOR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Taylor.

Mrs. Schroeder?

Mrs. SCHROEDER. I would like to go back to title VII because I must admit I get a little nervous as I hear you say "regulations" rather than "legislation."

Perhaps I am suspicious because of how easily regulations can be changed whereas legislation has a certain amount of permanence.

First I want to ask you whether it is your view that right now title VII covers both the Panamanians and U.S. citizen employees

of the Panama Canal Company, the Canal Zone Government, and the Department of Defense.

Mr. BLUMENFELD. That title VII what?

Mrs. SCHROEDER. Covers the people down there now.

Mr. BLUMENFELD. Were there no change in legislation, title VII would apply to U.S. citizen employees of the Panama Canal Commission but not to the non-U.S. employees when the Canal Zone ceases to exist.

Mrs. SCHROEDER. Until October 1 does it not cover everybody?

Mr. BLUMENFELD. Until October 1 it does, yes.

Mrs. SCHROEDER. Then my question is what would cause you to want to change it in the implementing legislation which will take effect after October 1?

Mr. BLUMENFELD. The system under title VII is not really in effect yet, so there is no experience to base it on. The regulations under which it would operate—FLRA regulations, establishment of the appeal route—all of these have not been set up, so there is no experience.

Mrs. SCHROEDER. While it covers everybody right now there is no experience under it. So, you would prefer not to have the legislation so you can change regulations as they fit the situation?

Mr. BLUMENFELD. As we would propose the legislation it would contain key elements of title VII and it would, in effect, guarantee that whatever regulations followed did follow title VII in those key respects. It gives some flexibility for adaptations in the future which we think are necessary because of the evolutionary nature of the operation down there.

Mrs. SCHROEDER. What I really want to know is what makes Panama so unique from the rest of the country that DOD should be allowed the kind of leeway that regulations provide. I hear you saying it is unique but everybody claims to have a unique situation and would prefer regulations rather than being tied firmly to title VII.

I wonder why Panama should be different from the continental United States.

Mr. BLUMENFELD. Fundamentally it is that we now have a work force. Somewhat over two-thirds Panamanian. The proportion of Panamanian work force will increase over the course of the years. There are going to be special treaty requirements with regard to hiring. There will be apprenticeship programs which, while already active, will have to be stepped up considerably under the treaty in order to carry out our obligation for training of Panamanians.

Mrs. SCHROEDER. You say if title VII were continued in effect it would be a problem.

What section of title VII do you think would cause a problem?

Mr. BLUMENFELD. The key would be the way—and I am not a lawyer so I might not use terms appropriately—the way case law develops under title VII and in the continental United States, decisions of the FLRA reflecting conditions in the continental United States, these conditions are not the same on the isthmus.

As I mentioned before, we have no problem in incorporating, in toto, the requirements of title VII as they relate to definition of management rights, unfair labor practices, standards of conduct

and other key items of the system which we would see being implemented. Other requirements would closely parallel title VII.

It is that local base we really feel is necessary as opposed to the national FLRA base.

Mrs. SCHROEDER. I am worried about the perception of becoming a colonial power. I am wondering what conditions down there will be that different from those of employees of the United States. It makes me a little nervous to hear you say that conditions are so different as to preclude applying title VII.

Maybe you can get cheaper labor, and you will do it; or maybe employees will work longer hours, and you will do it.

If you can submit for the record a statement to convince me there is something more specific I would appreciate it.

I am concerned about having two different standards.

Mr. BLUMENFELD. They will not be lesser conditions at all. They are different conditions. Perhaps if I did supply the draft version of the kind of labor relations system with the specific words showing the specific differences and similarities of title VII exactly what we have in mind and what we have discussed with some of the unions, that might help you.

Mr. HARRIS. Very briefly, I think this type of information will be very, very important for our record.

I want to be very specific with regard to the question.

Conditions are somewhat different from conditions in Hawaii—

Mrs. SCHROEDER. And Colorado.

Mr. HARRIS. Snow problems are not as severe in Mississippi as in Alaska. We understand a general application of those conditions.

What we are asking is what makes those differences so unique as to be different, if you will, from differences which exist in the system quite normally.

Mrs. SCHROEDER. I agree.

Maybe I can follow up with the minimum wage standard. What is the difference between American and Panamanian minimum wage standards, and under which scale will workers be hired after October 1?

Mr. BLUMENFELD. The difference is substantial. Panamanian minimum wage runs anywhere from 65 cents to \$1.20 an hour. The U.S. minimum wage is now \$2.90.

With respect to plans for wages for new hires after October 1, those plans have not yet been made. There are various options possible, and various options are being considered, but we have no recommendation at this stage as to what that will be.

Mr. SCHROEDER. It seems to me that if your decision were to go with a lower wage scale after October 1—the decision is not yours but whoever makes that decision—it seems there will be tremendous pressures to RIF the old employees, and, under your scheme, they would not have a lot of the title VII protections. That is one of the matters about which we are very concerned.

Therefore, we would like to know the answers to those kinds of questions before we move forward. We don't know what the wage scale for the new hires will be and it is very difficult to understand what would happen.



Mr. BLUMENFELD. I should point out that we have made some decisions on the treatment of the existing employees after October 1 with respect to grandfathering wages.

If you question the unions with respect to the likelihood of a RIF in order to "get rid of" high wage employees, I can simply tell you that that subject never has even come up in any of our discussions and there will be no plan to undertake that kind of venture.

Mr. SCHROEDER. It has come up in my suspicious little mind. Regardless of your good intentions I am concerned about that.

Local 1805, AFGE, represents a lot of nurses. They have complained that the Army has not even communicated with them about their future.

Do you think there has been a failure in communication? Is it because you don't know their future? Why are they having so much trouble?

Mr. BLUMENFELD. This is the first time it has been brought to my attention there has been any trouble.

I know on many occasions in the past year and a half I have spoken with the nurses.

As to the lack of communication, you are raising the concern for the first time. I shall check the concern.

Mr. SCHROEDER. I would appreciate it.

When Panamanian teachers currently with the company and with the Government are transferred to DOD will they have the right to transfer throughout the DOD education system?

Mr. BLUMENFELD. I believe only the U.S. citizen teachers who transfer would have the right for system-wide transfer thereafter.

Mr. SCHROEDER. Is that right, that only American citizens will be entitled to that?

Mr. BLUMENFELD. Yes.

Mr. SCHROEDER. Do you think there is any need for a Panama area labor relations board? If so, what kind of make-up would you recommend?

Mr. BLUMENFELD. I do see that need. That is the key difference from title VII, this locally-based Panama labor board.

We have no fixed concept of its membership. We believe it should probably be a three-person board, that its members should be appointed by the Secretary of the Army and that they should be removable only for cause, thus paralleling the continental United States situation with the FLRA. Those are some of the key aspects of it which will be in effect—parallel to FLRA operation but locally based.

Mrs. SCHROEDER. I am a little worried about how they would negotiate with the gentleman appointing them.

Mr. BLUMENFELD. How the board members negotiate?

Mrs. SCHROEDER. With the Secretary who appointed them.

Mr. BLUMENFELD. With respect to what?

Mrs. SCHROEDER. Negotiating with regard to the employees they represent.

You said the members would be appointed by the Secretary of the Army.

Mr. BLUMENFELD. Right; and they would be removable only for cause.

Mrs. SCHROEDER. How do they turn around and negotiate with the Secretary of the Army with regard to conditions in Panama?

Mr. BLUMENFELD. Maybe we are talking about something different.

The board is the board which decides the grievance and arbitration process. Their decisions would be final.

Mrs. SCHROEDER. That is correct, but I certainly think they would be subject to influence. I worry about that phase of it. I would think they need to be more independent.

Back to the teachers in DOD. How are labor-management relations handled right now with respect to DOD? How are they handled at this moment?

Mr. BLUMENFELD. I am not sure exactly what the question means.

They are handled as labor relations are handled elsewhere within DOD.

Mrs. SCHROEDER. My concern has been that there have been stormy relations in the Pacific region of DOD. My understanding is that the director of DOD has refused to sign agreements with the Overseas Education Association and they have been sitting on his desk since August of 1978. I have some concern because it is my understanding that a majority of the employees transferring into DOD will be nurses and teachers.

I shall insert the rest of my questions in the record.

Would you give us numbers as to the number of people affected by the special immigration provisions?

Mr. BLUMENFELD. I can give them to you now.

Our best estimate, and this is an estimate, is that if you take the three categories of canal enterprise employees, the first category, non-U.S. employees who reside in the Canal Zone and have had 1 year or more of service, we would estimate 1,000 employees would be eligible, making a total of 6,000 people considering their dependents.

The second category, Panamanian nationals who have been honorably retired from the Company or the Government after having had 15 years or more of service, we would estimate 4,500 retirees in that category who, with their dependents, would represent 9,000 people.

The third category, Panamanian nationals who are employed by the canal enterprise and have 15 years of service as of the treaty date and later retire, we estimate 5,500 such employees would be eligible who, with their dependents, would total 22,000 people.

The grand total from the canal enterprise, therefore, would be 11,000 employees who, with their 37,000 dependents constitute 48,000 eligible immigrants under the proposal.

As to what proportion of that 48,000 people would in fact end up immigrating, it would be little more than a guess; but somewhere between 10 and 20 percent would be my guess as to the number who would exercise eligibility.

Mrs. SCHROEDER. Thank you very much.

The CHAIRMAN. Thank you, Mrs. Schroeder.

[The following additional figures were furnished:]

There are additional figures for the Department of Defense that have not been covered. These figures just given are from the Panama Canal Company and the

Canal Zone Government. The Department of Defense has 2,535 employees who have retired with 15 or more years service with 2,035 dependents and 1,485 employees with over 15 years service who could subsequently retire with 7,593 dependents. This would add 13,648 to the total eligible.

Mr. LEACH. Mr. Secretary, first let me ask this: Like many Members of Congress I am surprised at the cost of the legislation. Can you tell me whether the administration realized how costly it would be during the negotiations process?

Mr. BLUMENFELD. Certainly the administration was aware of the kinds of costs that would be involved. I think there are really two categories of costs, those costs to the Canal Commission with regard to various items of transition and those costs covered by appropriated funds.

During the course of the treaty debate, and I think this has been perhaps not clearly enough restated, the administration said there were not going to be costs to the U.S. taxpayer for payments to Panama. That remains the case.

There are various elements of cost, some of them referred to this morning, such as military construction requirements because of property which is turned over and various other transition costs, the estimates of which are still undergoing computation.

Clearly there will be costs. But those costs will be for the benefit of the U.S. employees and U.S. retirees, as well as the U.S. military forces which still will be there.

Mr. LEACH. Is it not true, though, that Panamanian nationals who are currently Federal employees, will have the same retirement rights as Americans?

Mr. BLUMENFELD. That is correct. The treaty requires nondiscriminatory retirement.

Mr. LEACH. In other words, there will be a cost to the U.S. taxpayers for early retirement of Panamanians?

Mr. BLUMENFELD. As to the Panamanian citizens that would be correct.

Mr. LEACH. So it is not entirely true that the added cost is for the benefit of Americans only.

More importantly it strikes me that the administration took a public stance that there would be no cost to the taxpayer. I am wondering whether in your judgment that might have been deceitful because from the administration's statements it now appears there would be a substantial liability.

Mr. BLUMENFELD. That is like asking when did I stop beating my wife.

I believe the administration tried to be as accurate as it could at the time. As I said, we are identifying cost elements which will be involved right now.

Mr. LEACH. It seems there are two possible explanations: Either the administration was mistaken; or the administration was very naive and did not understand the cost issues.

Or would you say there could even be a third explanation?

Mr. BLUMENFELD. I am not sure that I would use the term "naive." I am not sure that discovering today that you have a more accurate estimate than you had 6 months ago or a year ago reflects naivete. I think you always get a better estimate as you get closer to the fact.



Mr. LEACH. Are you saying the estimates are much higher now than they were a year ago?

Mr. BLUMENFELD. I think the estimates now are probably somewhat higher than they would have been a year or a year and a half ago.

Mr. LEACH. You don't think the administration underestimated the cost factor?

Mr. BLUMENFELD. I think the administration is developing the best figures it can as of March 1979. It developed the best figures it could in whatever period of late 1977. I think there will be differences. I think there may be areas in which new costs have been identified as well as areas in which the activity or the action was identified with given costs and the costs now associated with it are higher.

I cannot give you a total figure but I can tell you we are developing those figures as to what the ultimate cost will be.

Mr. LEACH. It strikes me that you have two issues here. One is the issue of liberalized retirement benefits.

What is the rationale for giving liberalized benefits for those who voluntarily retire after October 1st of 1979? What would happen if this legislation simply were not enacted?

Mr. BLUMENFELD. Taking the first question, the purpose of having voluntary early retirement available after October 1 is our belief that having it there to grab onto at any time for those who might feel they want to use it will increase the chance that they will stay and give it a try in the new environment. We think cutting it off in 3 months, 6 months, or 9 months would probably make more people leave than would leave if they knew that that right was out there for them for the life of the treaty.

As to what would happen if the legislation were not enacted, there has been a major RIF situation declared by OPM which runs from April 1 to October 1. I am fairly certain more people would leave if the legislation were not enacted than would leave were it enacted.

Mr. LEACH. With regard to the cost of payments to the Panamanian Social Security fund for Panamanians, it will be about \$2 million?

Mr. BLUMENFELD. Between \$1 and \$2 million.

The CHAIRMAN. Thank you, Mr. Leach.

Mrs. Spellman?

Mrs. SPELLMAN. Are non-appropriated fund employees working for the Department of Defense and the canal covered by the civil service retirement system?

Mr. BLUMENFELD. No, they are not.

Mrs. SPELLMAN. If they should be RIF'd or if they are transferred to DOD, what happens where the retirement funds are concerned? Does not the treaty say that we will pay the employer and employee funds to the Social Security system?

Mr. BLUMENFELD. Just the NAF employees now? The United States committed itself in negotiations to make its best efforts—which are reflected in the proposed legislation—to provide funds for the purchase of retirement participation by NAF employees who, due to past circumstances, had not received retirement assurances comparable to those in the civil service retirement system.

Mrs. SPELLMAN. As I understand it, OPM has said that the amount of money involved there would be about \$2 million?

Mr. BLUMENFELD. No. the \$2 million which Mr. Leach referred to and which we referred to had to do with the purchase of equities in the Panamanian Social Security system for employees who had been there 5 years; Panamanians who had been there 5 years or more. These are not NAF employees.

Mrs. SPELLMAN. You do not think most of the NAF employees would go over into that system?

Mr. BLUMENFELD. With respect only to the NAF employees, which is a different provision from the one I just talked about. Negotiation and consultation are now underway to identify the numbers of NAF employees who would move into the Panama Social Security system; and based on those numbers a cost estimate will be developed for the cost of the United States providing an equity in that system. We had agreed in the negotiations to seek legislation for these purposes.

Mrs. SPELLMAN. We got information yesterday that the cost of buying into the Panamanian Social Security system for NAF employees would be \$2 million. This was supplied by DOD to GAO.

Mr. COAKLEY. I am William Coakley.

There are 207 non-appropriated fund employees working for DOD activities now. All of the non-appropriated fund employees are working for the Department of Defense now.

We have identified 207 employees who have periods of service which were not covered by the existing non-appropriated fund retirement programs. We have estimated that it would take approximately \$2 million to purchase an annuity for the period of time they were not covered.

It is not required that this be purchased in the Panamanian Social Security system. We could buy the additional time in their existing retirement program as well, and we are costing out both options. It was a little easier to come up with the estimate on the Panamanian Social Security, which would be around \$2 million.

Mrs. SPELLMAN. Do I understand that the funds would come from the civil service retirement program?

Mr. COAKLEY. No. It is specifically spelled out in 1716 that they would come from a specific appropriation provided for this specific purpose.

Mrs. SPELLMAN. There will be those funds?

Mr. COAKLEY. Yes.

Mrs. SPELLMAN. That is most reassuring because it was our understanding it would come out of the retirement system. That hardly seemed proper.

I think my other questions have been answered.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mrs. Spellman.

Mr. Crane?

Mr. CRANE. Mr. Secretary, if I heard you correctly, you said there would be no major construction done in Panama. Is that correct?

Mr. BLUMENFELD. The question had been with regard to any major rehabilitation of a disused naval facility.

Mr. CRANE. Would you classify renovating the barracks as a major item?

Mr. BLUMENFELD. I think we have to keep our context straight, sir. there are renovations which one could call major, certainly, which are required to be performed in order that the military personnel who move from point "A" to point "B" can be accommodated at point "B."

As to the context I talked about before, it had to do with a particular facility turned over to Panama which has been unused for a number of years.

Mr. CRANE. As to that disused facility, if they renovated that would that be a cost to the American taxpayer? Are we required to do that as a concession made in the treaty?

Mr. BLUMENFELD. In the case of that particular facility, no, we are not required to do so. We have made that point clear to the Republic of Panama.

There is, however, construction, as you know, both in the fiscal 1979 budget supplemental of DOD and in the fiscal 1980 budget, construction and renovation made necessary by the movement of U.S. Armed Forces personnel from places which must be turned over to Panama into places which are retained as defense facilities.

Mr. CRANE. I might have misunderstood the situation, but did you mention Panamanian citizens will be receiving after October 1 30 months of health care from DOD?

Mr. BLUMENFELD. If they retain eligibility.

Mr. CRANE. Citizens of Panama?

Mr. BLUMENFELD. Those who are employees and dependents of the Panama Canal Commission.

Mr. CRANE. How much will that cost? Do you have an estimate?

Mr. BLUMENFELD. I can supply it for the record.

The CHAIRMAN. Without objection, it is so ordered.

[The information follows:]

There will be no cost to DOD for providing this service. The cost would be reimbursed to the DOD by the Commission. The estimated cost to the Commission for health care provided to non-U.S. citizen employees would be \$1.7 million. The Commission health care cost for the dependents of these employees could approximate \$2.4 million, for a total of \$4.1 million.

Mr. CRANE. As Mr. Leach mentioned earlier, these things make me wonder. You said these costs were going to Americans. Yet it seems many recipients are Panamanian citizens.

Were these concessions made later or were they in the original negotiation?

Mr. BLUMENFELD. They were in original negotiations. Let me clarify that further.

Clearly there are benefits going to Panamanian citizens, but those are citizens who happen to have been employees of the Panama Canal Co. and the Canal Zone Government.

What the administration said during the course of the treaty debate was that there would be no need for appropriated funds for payments to Panama, the Government of Panama, the Republic of Panama.

Clearly some citizens will receive some benefits but they are U.S. employees.



Mr. LEACH. First of all, it is my understanding that the President of the United States made the point you made, but he also made a point that there would be no additional taxpayer cost.

I might say, in that regard, as we look at the retirement costs and transfer of property costs, would you say it would be fair to say that these costs are in the half-billion-dollar range, as the Chairman of the committee estimated?

Mr. BLUMENFELD. I would not give a figure, sir. I can say, if you are talking about retirement costs, they were estimated by Mr. Campbell at some \$205 million on a static basis.

Mr. LEACH. \$12.7 million for 30 years comes to what?

Mr. BLUMENFELD. \$380 million or whatever that translates to. That is the cost estimate.

Mr. LEACH. And the property being turned over?

Mr. BLUMENFELD. The property being turned over, yes.

Mr. LEACH. From the standpoint of the American taxpayer, would you say the President made a half-billion-dollar mistake?

Mr. BLUMENFELD. I wouldn't say that.

Mr. LEACH. What is the cost for all of this added together, then? Is it a quarter-billion-dollar mistake?

Mr. BLUMENFELD. I would not say it was a mistake as to any specific magnitude.

Mr. LEACH. You said during the negotiating process——

Mr. BLUMENFELD. You are talking about two different classes of dollar values. One is property which is being transferred. We can supply for the record the value of property which is turned over as of Day One and the value of property to be turned over during the life of the treaty and value of property turned over after the treaty.

You have other categories of actual expenditures such as early retirement and military construction.

There are still other categories of expenditures which will not come out of the U.S. taxpayer but out of the revenues of the Panama Canal Commission, the Company, and the Commission. In that case, then, you are talking about not only apples and oranges but pears as well. There are various costs involved.

We are currently developing the best estimates we can, based on the latest knowledge we have, of the precise dollar costs involved. I don't have that figure today.

[Further information follows:]

Earlier, I had given the value of the military property being turned over to Panama. The net book value, as of January 31, 1979, of the properties to be transferred from the Canal Zone Government and the Panama Canal Co. on October 1, 1979, is estimated at \$96 million, during the early treaty period is estimated at \$4 million, and at the end of the treaty period is estimated at \$494 million.

Mr. LEACH. You have come to this committee for legislation for which you do not have dollar estimates. This is a year after the negotiation of the treaty.

It seems to me a little peculiar to deny us the figures we are asking for and at the same time to ask for legislation. From the administration point of view that is putting Congress on the spot.

Am I wrong in that assumption?

Mr. BLUMENFELD. We are developing, and will have as soon as they are developed, the best estimates of all of the costs involved

and all of the classes of costs mentioned with respect to title III, which we have come before this committee to discuss. We have estimates which Mr. Campbell gave the day before yesterday with regard to the retirement costs. We have been attempting today to identify the costs of other elements, such as the Panamanian social security system, and we are prepared to discuss other costs associated with title III.

You are asking for cost figures, some already identified and some not yet fully computed, as well as a whole variety of other cost categories.

I do not think it is improper to be before this committee prepared to discuss title III and——

Mr. LEACH. I understand your limited point.

However, the administration is seeking legislation a year after the treaty was negotiated and it still does not know the cost of those negotiations even though during the negotiating process strong assertions were made there would be no taxpayer expense. I question that as to where we are going. It has nothing to do with the rightness or wrongness of implementing the treaty.

I would be hopeful the administration would be somewhat more forthright and forthcoming as well as better prepared. I apologize, because I understand your point.

I thank the gentleman for allowing me to take some of his time.

Mr. CRANE. Would you or the administration not admit there will be some costs to the taxpayers of the United States?

Mr. BLUMENFELD. There will indeed be some costs to the taxpayers of the United States.

Mr. CRANE. What we are quibbling over is the amount. That is something you will give us at a later date; is that correct?

Mr. BLUMENFELD. As soon as we have developed the information we will provide it to this committee and to other committees of the Congress.

let me reaffirm that the cost to the taxpayers of the United States we are talking about are not payments, will not represent payments, to the Republic of Panama. They will be for the good of the U.S. citizens and U.S. employees.

Mr. CRANE. We must also preface that concept with the idea there will also be Panamanians who will benefit.

Mr. BLUMENFELD. There will indeed.

Mr. CRANE. As Mr. Leach pointed out, I think many American citizens were deceived with the concept there would be no cost to the taxpayers. Yet there is a cost to the taxpayers.

Mr. BLUMENFELD. Panamanian citizens today are receiving benefits from the taxpayers of the United States by virtue of their present participation in the U.S. civil service retirement system.

Mr. CRANE. If it had not been for the treaty, then that would not have necessitated early retirements. Is that not correct?

Mr. BLUMENFELD. That is correct.

Mr. CRANE. Therefore, we are putting additional costs on the taxpayers because of that treaty. Is that also correct?

Mr. BLUMENFELD. That is correct.

Mr. CRANE. Thank you.

Mrs. SPELLMAN. In all fairness to the administration, and I have not had very much opportunity to defend them in this committee,

all reorganizations have costs. Early retirements result from various reorganizations.

In the movement of employees from one department to another and from one location to another there are costs. I suspect that if this were compared with other moves it will make the Panama Canal cost look pale.

Mr. LEACH. I appreciate that point. However, I might point out that the Leach amendment calls for the reduction of personnel and not the shifting of personnel.

I find it difficult to see how a reduction in personnel, which can be achieved over a 1-year period, adds to the cost.

Mrs. SPELLMAN. I am referring to all functions being transferred and moved out. I would suggest we take a very good look at what movements cost, movement of personnel, reorganization, and so forth, before we make an attempt to implement that particular amendment.

Mr. LEACH. I appreciate those comments. I know it was very expensive for the Department of Energy to move to Gaithersburg, Md. I'm not sure it will be much more expensive to again move these people.

Mr. HARRIS. Two or three very specific questions.

For all practical purposes, is it not true that the canal will be run and administered by the United States?

Mr. BLUMENFELD. The United States has responsibility for operation of the canal.

Mr. HARRIS. Does the treaty guarantee that all present employees will retain their current benefits?

Mr. BLUMENFELD. The treaty guarantees that, in general, terms and conditions shall be no less favorable after than before the treaty.

Mr. HARRIS. What is the purpose of offering these special benefits if in fact personnel receive these guaranteed current benefits until the year 2000?

Mr. BLUMENFELD. I think the central reason is that a number of the employees, despite the assurances, feel that the change to Panamanian jurisdiction will, in their view, unacceptably alter their way of life. Because we want to retain needed skilled employees, we want to adopt the strategy that will enable them to stay on and give it a try as long as possible. We think the early retirement contributes to that strategy very importantly.

Mr. HARRIS. We have in fact guaranteed until the year 2000 all existing benefits. Under the treaty they can be sure we will be operating the canal through the year 2000. Yet we feel it is necessary to offer them special benefits in addition to that?

Mr. BLUMENFELD. Yes, we do. We think it is important to retain the needed employees, and they will be much aided by the knowledge of available early retirement which they may later elect to take that.

Mr. HARRIS. To return to the special benefits, what sort of commitment have you received from the employees?

Mr. BLUMENFELD. There has been no specific commitment received from the employees. One can deduce from their interest in the provisions we are recommending that those provisions would be



important determinants of whether they stay down there or not. We want them to stay down there; those we need.

Mr. HARRIS. For the purpose of the record, in addition to the guarantees we will be offering now until the year 2000, in addition to the guarantee of all existing benefits, we are offering a special benefit, and in return we are receiving no commitment from them with respect to staying on the job for any fixed period of time?

Mr. BLUMENFELD. We have received no such commitment, nor do I know of a vehicle by which you could enforce any such commitment were it given.

Mr. HARRIS. You have said that you determined these special benefits were necessary and will be effective. With respect to the pilots, you have done some sort of poll with regard to attitudes?

Mr. BLUMENFELD. Some time ago, yes.

Mr. HARRIS. What does "some time ago" mean?

Mr. BLUMENFELD. I will get for the record the exact date when the poll was done. My recollection is that it was approximately a year ago.

I also referred to a more recent action which began in February of this year, which was the implementation of what is called a 6-4 plan for the pilots, where they work 6 weeks and are off for 4 weeks and can, if they wish, given that regime, reside in the continental United States. A number of them have found that an attractive proposition and they would stay on under that regime.

Mr. HARRIS. With regard to the poll, has a poll been taken since a year ago?

Mr. BLUMENFELD. Not to my knowledge, but I shall supply a full answer for the record.

Mr. HARRIS. If you will. I would appreciate it.

In addition, if in fact you do have polling results I would like to ask we be supplied with that specific information.

Mrs. SPELLMAN [acting chairman]. Without objection, it is so ordered.

[The information follows:]

A questionnaire was sent to all employees of the Company/Government on or about June 29, 1978, regarding their future plans to continue working, to retire, or to resign. The questionnaire made the assumption that the early retirement option of draft treaty implementation legislation would be approved. Results indicated that, generally, 67 percent of the work force (70 percent of non-United States and 59 percent of United States) will choose to continue working beyond the transition period, that is beyond April 1, 1982. Responses as to whether the employee would choose to continue working varied widely according to the alternative presented in the questionnaire, that is, be retained by the Commission, transferred to DOD, or employed by the Republic of Panama. Responses also varied among selected employee groups (that is, pilots, manual United States, manual non-United States). It is recognized that by the time a firm decision is required, some employees will have changed their minds.

Mr. HARRIS. As far as you know, no other polls have been taken with regard to other employees in the Canal Zone?

Mr. BLUMENFELD. Not to my personal knowledge.

Mr. HARRIS. That seems to indicate it might have happened and you do not know about it?

Mr. BLUMENFELD. That it possible.

Mr. HARRIS. I have questions about the authority for the proposal to give an employee of the Panama Canal priority placement over other Federal employees.

Mr. BLUMENFELD. There is authority within the law. The priority level one placement to which you refer does not give an employee of the Panama Canal enterprise priority over others who are also in the displaced employee program. They have equal priority with others in that same priority level.

Mr. HARRIS. What is the specific statutory authority under which the administration is operating?

Mr. BLUMENFELD. I will supply that for the record.

Mr. HARRIS. I would appreciate that.

Mrs. SPELLMAN. Without objection, it is so ordered.

[The information follows:]

The authority for a special placement program to assist displaced employees in the Panama Canal Zone does not derive from specific statutory authority. Rather, it is derived from the Office of Personnel Management's (OPM) general authority to prescribe regulations and policy for personnel administration of Federal employees.

The Panama Canal Treaty of 1977 states that it is the policy of the U.S. Government that U.S. citizens who were employed by the Panama Canal Company or Canal Zone Government prior to entry into force of the Treaty and who are displaced from employment as a direct result of the implementation of the Treaty will be provided maximum possible placement assistance. Accordingly, the OPM is charged with the responsibility for developing and administering a Federal Government-wide placement program for eligible employees who request placement assistance.

Mr. HARRIS. Is the program being implemented by way of announcements, circulars and so on, as to the regulations?

Mr. BLUMENFELD. The OPM circular was published on January 25, 1979.

Mr. HARRIS. I would also appreciate that for the record.

Madam Chairman, I think this should indicate to this committee something that is exceedingly important.

If in fact—and I became aware of it only today—the administration is operating under the general belief and authority that they can provide priority placement to employees without additional legislative authority, I think it is incumbent upon the committee to find out what this authority is and whether or not it should be limited.

No. 2, it seems to me that this question of priority placement involves an awful lot of people's rights. I am more than a little conscious of this.

If in fact we are going to have other employees throughout the Civil Service Commission influenced, giving preference to employees of the Canal Zone, it seem to me a policy question of some magnitude should be explored.

Might I ask this: If we are proceeding now through the year 2000 to in effect guarantee U.S. control and appointment authority and guarantee benefits to those employees who stay on the job, how many of the existing employees will have reached retirement eligibility age by the year 2000?

Mr. BLUMENFELD. Unless my mathematics fail me I would think virtually all by the year 2000 if they are employed today will have reached that.

Mr. HARRIS. I think you are probably right.

I would indicate I am trying to understand what the fears are with regard to these employees who are assured current benefits through the year 2000, most of whom will have attained retirement



age under the existing program, and yet we have to come up with all these special benefits which intrude upon the rights of the rest of them, rights other employees have obtained throughout the system. It is a matter of great concern to me and I imagine of great concern to the committee.

Mr. BLUMENFELD. First of all, the treaty guarantees that the terms and conditions will be generally no less favorable. Beyond the tangible pecuniary benefits of wages and fringes I think there are concerns among the employees, as I mentioned, over Panamanian assumption of criminal jurisdiction and what they will mean, uncertainties about what the future holds with respect to community facilities, churches, YMCA's, et cetera; concerns about whether the quality of life which is not measurable in specific terms and in specific guarantees will, in fact, decline. That is what worries them.

While we may, sitting here, feel it is not a very valid worry; and, in fact, we are quite confident that the transfer of jurisdiction will go very smoothly and that the quality of life will be maintained, we are talking about a group of employees who find that very difficult to believe.

We think, given our need to retain large numbers of those employees for at least some years, we have to take some steps which will assure that tenure.

Mr. HARRIS. I can understand that argument and that is why I am questioning the magnitude of the special benefits necessary and the legitimacy of those benefits. That is why I am wondering whether any documentation of these assertion is available and whether they are necessary.

If, for example, you were applying for a position tomorrow for which you were extremely qualified, and found somebody else was going to get that position, not because they were as qualified as you, but because they happen to have worked in Panama, I would suggest you would feel your rights had been seriously jeopardized, and you would be absolutely correct.

We give a returning veteran a 5-point preference, but we give to the person retuning from the Canal Zone a position of their own choice despite the fact benefits are guaranteed, and after the preference to knock somebody out from a position he or she is applying for.

I just wonder how far we should go here in setting up such an extreme situation.

Mrs. SPELLMAN. Let me ask a question I have asked other witnesses since we are attempting to keep the employees there. Having been there I know they are very, very concerned about all that is taking place. They are very nervous about it and feel the quality of life will be changed. There are concerns about the kind of management there will be.

However, would it not have been preferable not to offer early out right from the beginning but to keep them there with a carrot at the end of the stick? "If you stay at least three years," "if you stay at least five years," "if you stay at least some period of time which would be long enough to enable you to find out, hopefully, that the quality of life will not be changed and that the circumstances of your employment really will not be affected to such an extent." At



that point early out would be made available for a long period of time henceforth just to keep them there during that really traumatic period?

Mr. BLUMENFELD. I understand your question.

Treaty language requires that the advent of the treaty will trigger a determination that conditions exist which invoke applicable U.S. law permitting early retirement and annuities and calls for the application of such law for a substantial period of the treaty.

Second, it provides that the United States is committed to seek special legislation for liberalized eligibility for and calculation of retirement annuities.

If you go back to the figure which I mentioned earlier in the hearing, that under the normal RIF provisions there were 4,300 or so employees eligible, our special legislation would extend that by 1,000 to 5,300. Thus the extension of eligibility certainly meets the treaty requirements but does not go far beyond that. One could conceivably choose 19/49 rather than 19/48 or whatever. However, I do not think that would be an enormous difference.

The treaty requires much of what we are proposing.

We have built in the kind of future oriented device which I think you properly seek, the calculation of annuity of 2½ percent a year for post-treaty service. The mandated early retirement within the treaty must be applied from the outset of the treaty.

Mrs. SPELLMAN. It would be unfair to put the question that way, and I understand you are limited by what the treaty states. For guidance in the future, don't you think it might have worked better to have made it difficult for those people we need there to leave right off the bat because of what might be ungrounded fears?

Mr. BLUMENFELD. That is speculative. We might have made the pot at the end of the rainbow so big that once they were there 3 years they might grab the pot and it might be bigger in terms of cost than what we have proposed.

Mr. SPELLMAN. There was a question asked earlier about Panamanian preference with regard to promotions.

Mr. BLUMENFELD. It is only in hiring. The treaty requires that only in hiring.

Mr. SPELLMAN. Is there anything in the implementing legislation which spells out that it does not take place in promotions?

Mr. BLUMENFELD. It is silent in that regard.

Mrs. SPELLMAN. Would there be any possibility that through some regulations later on Panamanian promotion preference might be asserted? We ask this because we have a similar situation with regard to the Bureau of Indian Affairs.

Mr. BLUMENFELD. There certainly is no such intent, and indeed the reverse is true, the kind of consciousness you refer to exists among the employees in Panama, too. There is a fear that there would be, as Panamanians take on more management positions, a de facto preference in promotion because it is a Panamanian supervisor making promotion decisions.

There is certainly no intent on the part of the United States, which has responsibility for running the personnel system, to encourage such preference in promotion.

Mrs. SPELLMAN. Thank you very much.

Mr. Garcia?

Mr. GARCIA. Let me pick up where I think Mr. Harris was leading. I refer to the question of the number of employees who would otherwise be eligible for retirement in the year 1999 if they do not request early retirement.

Do you have any idea?

Mr. BLUMENFELD. I think mathematically it would have to be virtually all. I don't have a number.

Mr. GARCIA. What kind of notification process is there with regard to retirement?

Mr. BLUMENFELD. What kind has there been?

Mr. GARCIA. Yes.

Mr. BLUMENFELD. To my memory there was at least one, and there might have been more, communication from Washington through the Panama Canal Company, both in The Spillway, which is the newspaper, and in employee paycheck notices, of the provisions of the early retirement benefits which we were seeking in legislation.

I am not sure whether that is responsive to your question.

Mr. GARCIA. What about one of the other concerns, the right Panamanians to emigrate to the United States? Would we absorb the cost of those persons who come here?

Mr. BLUMENFELD. Cost of transport?

Mr. GARCIA. Yes.

Mr. BLUMENFELD. No, sir.

Mr. GARCIA. That will be paid by them?

Mr. BLUMENFELD. Yes.

Mr. GARCIA. One of the problems we have is that this has not been clearly defined. I think it is something that should be defined so there would be no misinterpretation of how far that right goes in terms of their migrating to the United States.

Thank you.

Mrs. SPELLMAN. Thank you very much. We appreciate your being here today.

We apologize for keeping you so long.

Mr. BLUMENFELD. It is a pleasure to have been here.

Thank you very much.

Mrs. SPELLMAN. Our next witness will be Mr. John F. Jameson, Assistant Secretary of Administration, Smithsonian Institution.

Mr. Jameson, we must also thank you for your patience. You waited a long time before being called upon.

#### STATEMENT OF JOHN F. JAMESON, ASSISTANT SECRETARY FOR ADMINISTRATION, SMITHSONIAN INSTITUTION

Mr. JAMESON. I appreciate the opportunity to appear before you today on behalf of the Smithsonian Institution, and to delineate our interests in the pending legislation to implement the Panama Canal Treaty of 1977.

A major element of the Smithsonian Institution is the Smithsonian Tropical Research Institute (STRI), which is located on the Isthmus of Panama and is the Nation's primary center for basic research in tropical biology. The Institute's goals are to conduct advanced studies in the biology of tropical marine and terrestrial organisms and to increase and diffuse knowledge of their ecology, behavior, and evolution. In addition to fundamental research, STRI



has a responsibility for promoting education and conservation in the tropics. It operates a library with the most comprehensive collection in Central America of books and journals on tropical biology, and maintains a series of field stations on both the Atlantic and Pacific coasts of the Isthmus, as well as the world-famous biological area at Barro Colorado Island.

Barro Colorado Island was formed in 1914 during the construction of the Panama Canal when the Chagrés River was dammed to create Gatun Lake. In 1923 a group of scientists successfully petitioned the Governor of the Canal Zone to reserve an area in the zone for scientific research, and the largest island in Gatun Lake, on which a 3,600-acre reserve and research station was established, subsequently was put under the supervision of the Institute for Research in Tropical America, a unit of the National Research Council.

Barro Colorado Island acquired a world wide reputation as a tropical field station, and publications about its flora and fauna made it one of the best known pieces of real estate on earth. This, in turn, made it valuable for further research, and in 1940 Congress authorized the President to establish Barro Colorado Island as the Canal Zone Biological Area, a separate agency under a board of directors that included the Secretaries of War, Agriculture, and the Interior; the Secretary of the Smithsonian Institution; the President of the National Academy of Sciences; and eminent biologists. Under Reorganization Plan No. 3 of 1946 the functions for the Board of Directors of the Canal Zone Biological Area were transferred to the Smithsonian Institution.

It is anticipated that under the terms of the Panama Canal Treaty the scientific mission of the Smithsonian Tropical Research Institute will remain unaltered. STRI has been guaranteed the continued use of its laboratories and offices on the mainland, and both of the governments concerned support its unique and important efforts. This was clearly established by the agreement signed on January 5, 1977 between the Minister of Health of the Republic of Panama and the Director of the Smithsonian Tropical Research Institute, and was reaffirmed by the subsequent incorporation into the Treaty of two exchanges of notes and an agreement.

The valuable nature of Barro Colorado Island was further recognized in 1977 by both the United States and Panamanian negotiators of the Panama Canal Treaty who chose to protect its future status and to increase the area available for the protection of wildlife. The Smithsonian Tropical Research Institute has been designated by both governments as custodian of the Barro Colorado Island Nature Monument, and an agreement pursuant to Article VI of the 1940 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere has been signed by both nations.

Implementation of the Panama Canal Treaty will require some adjustments by STRI, particularly in the areas of administration, personnel management and compensation, and protection of the extended area of the Barro Colorado Island Nature Monument. Under the treaty and its annexes, STRI will administer the Nature Monument, and in so doing will continue to provide the fencing, posting, and security force necessary to protect the environment; maintain the trails and boat channels to allow access to the Nature



Monument; manage the biological station on the Island by providing lodging, laboratory space, and logistical support for visiting scientists and naturalists; and offering environmental interpretation service for visitors.

The key to our custodial responsibilities for the Nature Monument and to our continuing research and educational functions is, of course, our employees.

At the present time the total number of Smithsonian employees in the Panama Canal Zone is 90. Of this number 71 are direct Federal employees of the Smithsonian Tropical Research Institute. Ten others are Federal employees of other Smithsonian units who are working at STRI, and the remaining 9 are supported by non-appropriated trust funds available to the Institution.

All Federal positions at the Smithsonian Tropical Research Institute are part of the Canal Zone Merit System. Implementation of the Panama Canal Treaty of 1977 will merge the Canal Zone Merit System into an interim Panama Canal Employment System (PCES) under the Panama Canal Commission, the successor to the Canal Zone Government and the Panama Canal Company. The Commission and its employment system will cease to exist after the year 2000.

The Institution plans to continue its scientific, educational, and conservation functions well beyond the year 2000. It is, therefore, essential that we take a long-range view and have an employment system consistent with our continuing role in the Republic. Certainly that system must be in conformance with the outlines of the proposed implemented legislation, but based on the understanding that our mission is one of research and conservation, and not of canal operation.

In seeking a long-term solution that will permit the uninterrupted conduct of our research activity at STRI, consideration must also be given to its international status and to the international composition of its staff. While STRI maintains its base in Panama, research pursuits take its staff all over the tropics, and require the employment of tropical research specialists from around the world. An equitable system that will insure our ability to attract and compensate high caliber personnel and maintain a level of excellence in tropical research will, we believe, most appropriately, serve the needs of STRI and its employees now and into the next century.

Mr. Chairman, I shall be happy to respond to any questions you and the members of the committee may have.

Mrs. SPELLMAN. We heard about your operation almost everywhere we turned. I must say everyone was very impressed with the manner in which those operations were conducted. Certainly you are to be commended.

The Smithsonian employees work for the United States Government?

Mr. JAMESON. Yes, Madam Chairman.

Of the 90 employees in the Panama Canal Zone, 71 are direct Federal employees of STRI. Ten others are Federal employees of other Smithsonian units working at STRI, and nine are supported by nonappropriated trust funds available at the Institution.

Mrs. SPELLMAN. Do you employees participate in the Civil Service retirement?

Mr. JAMESON. All of the Federal employees are in the Civil Service retirement system. The trust fund employees are under a Smithsonian retirement system.

Mrs. SPELLMAN. Under present law is the Smithsonian considered part of the executive branch?

Mr. JAMESON. Madam Chairman, the Smithsonian does not consider itself part of the Federal branch. Federal employees, however, have been part of the Civil Service system since 1896. They are accorded all of the benefits and privileges that that affords.

Mrs. SPELLMAN. The Smithsonian will continue operating after the year 2000, I understand. Why, then, are special benefits required for their employees?

Mr. JAMESON. I think our interest in this legislation and in whatever implementing regulations which would come out of this legislation is primarily in the area of pay. I think we are properly concerned that we continue to be able to afford all of the employees in the area equal pay for equal work.

In our tracking of the discussions which are taking place with regard to the future of the employment system in the area there has been some discussion that after October of this year a new pay scale might go into effect for newly hired employees.

We are a very small staff. It is a tightly knit staff of professionals and paraprofessionals as well as a small administrative staff. They work closely together, and I think in terms of equity and harmonious working relationships it would be important to have a pay system before and after the October cutoff date which is fair to all employees, both the previous ones as well as new hires to replace people in the future.

Mrs. SPELLMAN. Also there will be no trauma connected with the changeover of Smithsonian employees. You are saying the standards will be changed in that area and your people should be on the same standard as all the others?

Mr. JAMESON. We feel we have no responsibility among the agencies represented to take the lead in terms of determining what the standards should be in the future but obviously we are very interested in them and are pleased to have this opportunity of appearing.

This will add one small aspect for the committee's consideration.

Mrs. SPELLMAN. We promised this would be short and painless. We thank you very much for your appearance.

Mr. JAMESON. Thank you very much for your kind words about the Tropical Research Institute.

Mrs. SPELLMAN. The hearing is adjourned.

[Whereupon, at 11:50 a.m., the committee recessed, to reconvene at the call of the Chair.]

[The statements which follow were received for the record:]

STATEMENT OF PATRICK J. NILAN, NATIONAL LEGISLATIVE DIRECTOR, AMERICAN POSTAL WORKERS UNION (AFL-CIO)

Mr. Chairman and Members of the Committee: For the record, I am Patrick J. Nilan, National Legislative Director of the American Postal Workers Union, AFL-CIO, accompanied by Legislative Aide Edward L. Bowley.



We speak on behalf of more than 325,000 postal employees for whom we are the Exclusive National Representative for labor-management relations and collective bargaining with the U.S. Postal Service. Our membership is employed in post offices in all 50 states, the District of Columbia, Puerto Rico, Virgin Islands and Guam. We are an industrial union representing clerks, maintenance and motor vehicle employees, special delivery messengers, and employees at USPS mail depositories, postal data centers and the mail equipment shop.

We appreciate this opportunity to present the views of the American Postal Workers Union concerning H.R. 111 and H.R. 1716 which proposes implementing the Panama Canal Treaty of 1977 and related agreements, and for other purposes.

The American Postal Workers Union has followed closely and with great interest the labor problems brought on by the Panama Canal Treaty of 1977 which has been duly ratified by both parties and will go into effect on October 1, 1979. As a labor union, we are concerned with the human lives and careers of those dedicated workers who devoted many years of exemplary service to the efficient operation of the Panama Canal. We commend you, Mr. Chairman, and this Committee for conducting these public hearings both in Panama and here in Washington, D.C.

President Jimmy Carter indicated the Panama Canal Treaty would cost the American taxpayer comparatively little overall and nothing in some areas. However, we now are hearing of estimated costs as high as \$700 million (plus) potentially being diverted from the Civil Service Retirement System in order to implement part of this treaty. If these estimated costs are accurate, it is more than three times as high as stated by OPM Director Alan K. Campbell when he put the projected price tag at approximately \$225 million.

The American Postal Workers Union supports the proposition of early-out retirement, placement assistant programs and other means of assisting those workers who are losing their jobs or are having their jobs eliminated. However, we are also greatly concerned with any added substantial strain on the Civil Service annuity fund as a result of the proposed early-out retirement provisions of the Panama Canal Treaty and other related costs from the fund.

APWU requests that the Committee on Post Office & Civil Service address itself to other means of paying such large costs rather than diverting funds from the Civil Service Retirement System for meeting the Nation's responsibilities in providing for and taking care of these adversely affected employees as proposed by the Treaty.

There are several suggestions which we believe should be considered. One would be for direct Congressional appropriations to the agency or agencies or funds which are concerned with the implementation of the Treaty. Another source of paying employee benefits is from the revenues of the Canal through increased toll charges for use of the Canal. Since all Nations of the world and all shippers benefit from the Panama Canal thus, it would appear self-evident that all should share equally in paying the cost for the transfer of the Panama Canal to Panama.

In any event, such a drain on the Civil Service Retirement System and present and future postal and federal employee retirees and survivors could be considerable. It is for this reason we offer the above two suggestions for your consideration in paying for the benefits of those employees who are being adversely affected.

We are told that the Civil Service Retirement fund is already more than an estimated \$100 billion "short changed" as a result of the Government's cumulative unfunded liability which I might add is a real tragedy and totally unacceptable in the American Postal Workers Union.

Thank you, Mr. Chairman, and Members of the Committee for giving us this opportunity to present the views of the American Postal Workers Union on a subject of particular interest to our members and their families. We shall be more than happy to respond to any questions concerning our testimony.

P.O. Box 662, ALBROOK AFS,  
Canal Zone, March 6, 1979.

MR. CHAIRMAN: Thank you for inviting me to submit a written statement.

As you will recall, I am a DOD employee speaking for myself, my friends and co-workers.

Our main concern is that DOD employees be treated fairly. For example—DOD employees should receive the same Priority Placement assistance and early retirement benefits provided former Panama Canal Company (PCC) and Canal Zone Government (CZG) workers.

Why should DOD workers receive the same consideration accorded PCC/CZG workers? Because both are in the same Canal Zone Merit System; and during the Reduction in Force (RIF) of 1979, hundreds of DOD employees will be displaced by



former PCC/CZG workers who transfer to DOD and are senior to our workers. Because DOD workers tend to be junior, DOD employees have a greater need for Priority Placement assistance and early retirement benefits. Why? Because it is the DOD employee who will lose his job!

Our goal is to have an equal civil service system for all U.S. employees working in the former Canal Zone.

Since 1955 and establishment of the Canal Zone Merit System, all U.S. employees here (including DOD) have lived and worked under the same general conditions concerning retirement and home leave entitlement, job protection rights, tropical differential and compensation.

The system has been the same for all U.S. citizens in the past.

We should all work under the same conditions of employment in the future.

I thank you Mr. Chairman and members of the Committee for your assurances that DOD workers will not be forgotten. We trust the members of your Committee to watch out for the interests of all U.S. citizen workers in the former U.S. Canal Zone now, and after 1 October 1979.

DOUGLAS D. INNES.

---

INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS,  
*Balboa, Canal Zone, February 28, 1979.*

Congressman JAMES M. HANLEY,  
*Chairman, Post Office and Civil Service Committee,*  
*Washington, D.C.*

DEAR CONGRESSMAN HANLEY: I wish to personally express my appreciation for the opportunity to testify before your committee during your February visit to the Canal Zone. As a follow up to several questions expressed by your committee, I am including the reference correspondence pertinent to the meeting between President Jimmy Carter and the past President of the Panama Canal Pilots Association on August 26, 1977.

The significant point of my testimony before your committee in reference to the liberalized retirement language in the proposed implementing legislation, is that those of us who have come to Panama to operate the Panama Canal consider this to be a commitment based on Article X, Section 10 of the Panama Canal Treaty. Many of the pilots and other essential workers on the Canal have made our career decisions based on the belief that our United States Government would provide the retention incentive of a liberalized retirement as outlined in the proposed legislation.

In regards to Congresswoman Spellman's remarks which I interpreted to indicate that perhaps she thought some form of premium pay might provide sufficient incentive for key professionals to continue working on the Canal, I must point out once again that professional port pilots in the United States average earnings in the six digit range on a yearly basis. I think the liberalized retirement incentive for mid-career employees would better provide the offer we can't refuse to remain here after October 1, 1979, to insure a smooth transition of the canal function as desired by the United States and Panamanian governments.

If our organization can be of any further assistance to your committee on this matter, please let us know.

Very truly yours,

NORMAN A. WERNER,  
*Branch Agent.*

---

CANAL ZONE GOVERNMENT,  
CANAL ZONE, BALBOA HEIGHTS, C.Z.,  
*March 1, 1979.*

Hon. JAMES M. HANLEY,  
*Chairman, Post Office and Civil Service Committee, House of Representatives, Wash-*  
*ington, D.C.*

DEAR MR. CHAIRMAN: During the past week I have read a copy of Mr. William R. Drummond's prepared statement which was presented to the Post Office and Civil Service Committee on February 16, 1979, at Balboa, Canal Zone. I also heard a tape recording of a portion of Mr. Drummond's testimony which digressed from his prepared text. As a result, I feel that I cannot permit Mr. Drummond's testimony to stand as an unchallenged official record of the Canal Zone Police Division's performance.

I have dealt with Mr. Drummond on numerous occasions during the past five years or so and have serious cause to doubt the veracity of his statements. In fact, all too often, Mr. Drummond's "facts" are simply one-sided unsubstantiated allegations.

Rather than dwell on personalities, I feel the two attachments prepared by independent sources prior to Mr. Drummond's testimony speak for themselves on the quality and character of the Canal Zone Police Division and those that manage it. Attachment A, which is self-explanatory was submitted by the Canal Zone Civic Councils, the police watchdogs for the community. Attachment B is a lengthy document extracted from a 1975 Police Wage Base Study independently supervised and conducted jointly by officials of the Panama Canal Company and labor unions. The study was headed by Dr. Byron L. Svetlik, Director of Psychological Research Services, Case Western Reserve University, Cleveland, Ohio. The study resulted in the conclusion that the Canal Zone Police Division is one of the most competent and professional federal law enforcement agencies. [Attachments A and B were not printed.]

I would appreciate your including the enclosed information in the official record of your hearings to provide a more balanced record to the unsubstantiated packet of information provided by Mr. Drummond and accepted into the record.

As Director, Civil Affairs Bureau, responsible for approximately 2,000 employees in the Canal Zone Government, I am keenly desirous of these employees being fairly represented before members of Congress. I fully concur with Congressman Derwinski in his assessment of Mr. Drummond's testimony. It is irresponsible and damaging to the outstanding contribution that the average Canal Zone employee is making towards this great waterway.

Thank you for your continued interest on our behalf. Your efforts are much appreciated.

Sincerely yours,

F. A. COTTON,  
Civil Affairs Director.

[The letters which follow were received in response to questions which were submitted subsequent to the hearings:]

CANAL ZONE GOVERNMENT,  
Balboa Heights, C.Z., March 20, 1979.

HON. JAMES M. HANLEY,  
Chairman, Committee on Post Office and Civil Service, 309 Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter dated March 1, 1979, requesting answers to questions posed by Ms. Schroeder of your Committee. Enclosed are my responses, listed in the same sequence as the questions.

If I can be of any further assistance to your Committee, or if there is additional information you may require, please do not hesitate to let me know.

Sincerely yours,

H. R. PARFITT, Governor.

#### QUESTIONS FOR GOVERNOR PARFITT

The legislation contains special immigration rights for Panamanian employees of the Canal. Please justify these special rights. Would it be appropriate to give these Panamanian immigrants preferential rights to civil service jobs in the United States?

In your statement to the Committee you said that collective bargaining will be established along the lines of Title VII of the Civil Service Reform Act. Yet, the statutory language of H.R. 1716 omits some key elements of Title VII, such as statutory assurance of the right to collective bargaining, dues check-off, an independent labor relations board, and the right of judicial review of labor board decisions. Please explain these omissions.

In your planned Reduction-in-Force on October 1, what percentage of those RIFed will be women? Please give the break-down of your workforce by occupational category, grade level, and sex now and after the October 1 RIF.

What would be the impact of allowing employee bargaining representatives to have the right to bargain collectively over wages with the Panama Canal Commission?

Have there been any labor strikes or slow-downs in the last two years in the Canal? What caused the trouble and how was it settled?



Would you have problems if Title VII of the Civil Service Reform Act, with the restriction on representation of aliens or noncitizens removed, was made applicable to Federal employees of the Commission and of DOD in Panama?

Title VII of the Civil Service Reform Act exempts from the definition of employees covered "an alien or noncitizen of the United States who occupies a position outside the United States." As I read this, if Congress did nothing in relation to labor management for the Panama Canal Commission, the American employees of the Commission would be covered by Title VII and the Panamanian or other nationality employees would have to organize and bargain under the conditions set by the Commission. Would this be a bad situation?

#### ANSWERS TO QUESTIONS POSED TO GOVERNOR PARFITT BY MRS. SCHROEDER

1. The special immigration provisions in both bills are intended to afford longtime non-U.S. citizen employees who have spent their careers working with the U.S. Government on the Isthmus, as well as those residing under U.S. jurisdiction in the Canal Zone, the opportunity to go to the United States if they so desire. The provisions would appear to constitute an appropriate expression of appreciation by the U.S. Government for the contribution made by these loyal employees, many of whose ancestors participated in the construction of the waterway. As to whether or not it would be appropriate to afford these immigrants preferential rights to Civil Service jobs in the United States, two of the three categories of individuals affected by these provisions either will have retired by treaty effective date, or will go on to retire thereafter. It is unlikely that many of them would be seeking employment in the United States. The appropriateness of preferential consideration for the third and least numerous category (non-U.S. citizen employees residing in the Canal Zone on the effective date of exchange of instruments of ratification and who have performed faithful service for at least one year) may be questionable in light of the fact that non-U.S. citizens are not eligible for employment with the Civil Service in the United States.

2. In section 303, the Administration bill (H.R. 1716), incorporates by reference section 7102, "Employees' Rights", of the Civil Service Reform Act, thereby providing the employee a statutory assurance that he will have the right, through a chosen representative, to engage in collective bargaining with respect to conditions of employment, under whatever form of collective bargaining is eventually adopted for Commission employees. You are correct in observing that H.R. 1716 does not specifically make provisions for dues check-off (section 7115), an independent labor relations board (sections 7104, 7105), or right of judicial review (section 7123). The provisions referred to in section 303 were not intended to be all-inclusive. In this connection, section 303 goes on to state in pertinent part that "the form inclusive of collective bargaining so established *shall contain such other necessary provisions* \* \* \* so as to provide the Commission's employees with the right to bargain collectively under the same conditions \* \* \* where that right is exercised generally in the Federal service within the continental United States." (Emphasis added.) It is fully expected that the President, in establishing a system of collective bargaining similar to Title VII, will provide for dues check-off and an independent labor relations board.

However, with respect to the right of judicial review afforded by section 7123 of Title VII, it is our view that it would be undesirable to include such a provision in whatever form of collective bargaining is eventually adopted, for the reason that the Courts in the Canal Zone will operate with only limited jurisdiction after October 1, 1979, and will be disestablished at the end of a 30-month transition period. Furthermore, even if judicial review or enforcement action were sought from an appropriate court in the United States, it is doubtful whether that court would have jurisdiction or enforcement power over a Panamanian union, its officials, and members residing in the Republic of Panama. The jurisdictional disputes which would almost certainly result would only impede the orderly collective bargaining process.

3. About 10 percent of those RIFed on October 1, 1979, will be women. It is too early for us to attempt a meaningful projection of the make-up, by sex, of the Canal work force after October 1, 1979. We will be in a better position to do so, and we will be happy to provide information in this regard, once the initial round of the RIF process has been completed. Enclosure 1 contains current data on our work force.

4. Wage bargaining would invariably result in substantial increases in wage costs. To meet these additional costs, the Commission would inevitably have to revise its toll rates upward.

More importantly, however, paragraphs 1 and 9(a) of Article X of the Panama Canal Treaty give the United States the right to establish the terms and conditions of employment of all Commission employees as well as a labor relations (collective



bargaining) system which is in accordance with United States law. Some unions representing non-U.S. Canal Zone employees, however, are already insisting that any system of collective bargaining must conform to the Panamanian labor code. That position ignores the fact that, unlike the Agreement in Implementation of Article IV of the Panama Canal Treaty which commits the Department of Defense to treat its Panamanian work force in accordance with Panamanian law, Article X of the treaty is written so as to preserve a "U.S." labor system for the Commission. In this regard we note that with very few exceptions, such as the U.S. Postal Service, Federal agencies in the United States are not allowed to bargain for wages. To allow the Commission to do so will, in our view, ultimately lead to additional demands to negotiate such matters peculiar to Panamanian labor law as the "13th-month bonus" and the right to strike.

5. There have been no strikes or slow-downs in the Canal in the last two years. On February 19 of this year, however, 45 Canal pilots called in sick in what was apparently a demonstration of disagreement concerning the applicability of the Federal pay ceiling to their positions. While the situation (which resulted in a transit delay for six vessels) might be characterized as a "sick-out," all the pilots involved called back in for return to duty by late evening of February 19, and operations were back to normal by the following day.

6. Assuming that, with respect to Commission employees, the "alien restriction" provisions were removed from Title VII, it is our view that the Canal agency could readily structure its labor relations program to conform to the requirements of Title VII as a substantive matter. There is one area, however, involving procedure (i.e., the third party dispute resolution machinery), in which we feel adoption of this provision for aliens would be difficult in this particular setting.

While we recognize that other Federal agencies may have similar reservations in terms of practical application of the third party dispute resolution machinery, it should be noted that the evolution of unions in the Canal Zone came about very differently from that which occurred in other overseas areas. First, there are many U.S. trade and craft unions operating in the Canal Zone which are not found in overseas areas. Second, formal recognition of units has been the only type of recognition granted. The result has been a multiplicity of locals whose bargaining units frequently overlap. It therefore can be anticipated that these unions will resort to the third-party machinery more frequently than unions in other overseas areas, particularly on questions of unit determination. The resulting costs and time delays might well hamper the Commission's labor relations program.

7. Your understanding regarding the consequences which would result should Congress take no action on the provisions in the implementing legislation regarding labor management relations is correct, i.e., U.S. citizen employees would be covered by Title VII and non-U.S. citizen employees would come under whatever system was established by the Commission. Under this situation, the Commission's system would have to be patterned, as nearly as possible, after Title VII to prevent charges of discrimination.

A dual collective bargaining system would, in our view, further polarize the work force along national or citizenship lines which, in turn, could result in an additional strain on U.S.-Panamanian relations. In all probability, such a situation would also serve, in the long run, to wipe out most of the U.S. unions since approximately 70 percent of our work force is currently Panamanian and the thrust of the treaty will be to increase that number. The remaining U.S. work force will increasingly include a higher relative proportion of U.S. citizen managers and supervisors (both categories being excluded from bargaining units under Title VII) as the total number of U.S. employees diminishes. This situation would then lead to increasing pressures from Panama to apply the Panamanian Labor Code in Commission labor-management relations.

## BREAKDOWN OF WORK FORCE BY OCCUPATIONAL CATEGORY, GRADE, AND SEX

Occupational category	Grade range <sup>1</sup>	Total employees <sup>2</sup>	Percent	
			Women <sup>3</sup>	Men <sup>3</sup>
Apprentice .....	AP-9/10 .....	204	6.9	93.1
Company officers .....	CX-1 .....	4	0	100.0
Teachers .....	ED-8/15 .....	538	63.3	36.7
School officers (principals and managers) .....	ES-5/8 .....	29	10.0	90.0
	ES-9/12 .....	8	37.0	63.0
Executives .....	EX-1 .....	7	0	100.0
Floating equipment group (towboat and dredge masters, engineers, mates) .....	FE-7/17 .....	177	0	100.0
Fire personnel .....	FF-1/7 .....	147	0	100.0
Graduate physician (interns and residents) .....	HR-8/12 .....	35	25.7	74.3
Learners (unskilled trainees) .....	LR-1 .....	56	0	100.0
Manual nonsupervisory .....	MG-1/7 .....	4,407	2.0	98.0
	MG-8/15 .....	1,852	.4	99.6
Manual leader .....	ML-1/13 .....	546	.4	99.6
Manual supervisory .....	MS-1/18 .....	401	0	100.0
Production facilitating (maintenance schedulers and locks control house operators) .....	FN-1/11 <sup>4</sup> .....	78	0	100.0
Nonmanual and related (includes GS) .....	NM-1/5 .....	2,336	43.6	56.4
	NM-6/10 .....	1,101	54.0	46.0
	NM-10/15 .....	734	15.0	85.0
Power generation group .....	PB-7/10 .....	38	0	100.0
Police personnel .....	PL-1/7 .....	237	5.1	94.9
Postal personnel .....	PO-11/22 .....	90	0	100.0
Railroad personnel .....	RR-1/4 .....	22	0	100.0

<sup>1</sup> Reflects wage category codes and grade ranges of each category.

<sup>2</sup> Includes permanent full-time and intermittent (WAE) employees as of Sept. 30, 1978.

<sup>3</sup> Average percentage of women in work force is 11.97 percent; on Dec. 30, 1978 it was 2,875 women of 18.4 percent. Average percentage of men in work force is 88.03 percent.

<sup>4</sup> Supervisory positions are tied to the manual supervisory pay rates.

AFL-CIO MARITIME COMMITTEE,  
Washington, D.C., March 21, 1979.

Hon. JAMES M. HANLEY, CHAIRMAN,  
House Post Office and Civil Service Committee, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN HANLEY: I have been asked by President Shannon Wall of the National Maritime Union of America, AFL-CIO, to submit answers to the questions posed by the Committee on Post Office and Civil Service following the hearings held February 16 and 17, 1979 in Panama:

1. (a) Will the establishment of a formalized structure of union recognition and collective bargaining, as envisioned by this legislation, result in fewer unions operating in the Canal area? (b) Which unions are likely to be forced out? (c) Is this a good thing?

(a) Yes, the establishment of a formalized structure of union recognition and collective bargaining, as envisioned by this legislation, will result in fewer unions operating in the Canal area.

(b) The unions likely to be forced out will be those who fail to get the majority of the votes in units where more than one union now has formal recognition under the existent Executive Order 11491.

(c) Yes, since this is the essence of collective bargaining which everyone here favors.

2. Title VII of the Civil Service Reform Act does not allow unions and management to bargain collectively over wages. What differences are there in the situation

in Panama which would warrant wage bargaining here and not for Federal employees elsewhere?

Full-scale collective bargaining is one of the goals of organized labor in the United States. However, there are unusual circumstances existing in Panama which could make bargaining for wages detrimental to some of the workers. We firmly believe that wage bargaining at this time in Panama could well obscure and endanger the wage position of non-U.S. citizen workers who have been historically lumped into the same economic mold as other overseas host countries where the United States has established bases.

This would provide DOD management and that of the Panama Canal Commission the necessary ready-made machinery and leverage to parade its inapplicable prevailing wage philosophy before U.S. public opinion and thus obscure and effectively camouflage the stark reality of a U.S.-created cost-of-living economy in Panama which is significantly higher than that presently existing for U.S. citizens in the Canal Zone and in all of the major cities in the continental United States.

We are convinced that wage bargaining at this time in Panama would weaken considerably the position and case for the non-U.S. citizen workers in Panama. No significant difference exists, as we in the NMU see it, to warrant wage bargaining there and to justify it as being advantageous to Panamanian workers.

3. Title VII of the Civil Service Reform Act exempts from the definition of employees covered "an alien or noncitizen of the United States who occupies a position outside the United States." As I read this, if Congress did nothing in relation to labor management for the Panama Canal Commission, the American employees of the Commission would be covered by Title VII and the Panamanian or other nationality employees would have to organize and bargain under the conditions set by the Commission. Would this be a bad situation?

Yes, this would create a most serious situation which could come back to haunt the United States throughout this Hemisphere. Panamanian and other U.S. citizen employees are already fairly well organized throughout the Canal Zone, even in the nonappropriated fund activities on armed forces installations.

(a) We in the NMU are seriously concerned that two bargaining arrangements could seriously injure the gains employees have made, especially Panamanian workers. The United States could be accused of attempting to revert back to the "gold and silver" standard—a duality which has created much of the tensions we have had throughout the years, and even today, in Panama. Even more menacing, from the viewpoint of the Panama Canal Commission, the negotiation of separate collective bargaining arrangements would complicate or snarl Canal operations. It is to be noted that this concern was shared openly by the late Congressman Ralph Metcalfe, former Chairman of the Panama Canal Subcommittee, a few months before his death.

(b) Since 1955, tradition and law have been oriented toward treatment of all employees of the U.S. Government throughout the Canal Zone as one composite and equal group.

This was not always the case and there ensued a bitter struggle over several decades—a relentless struggle—for equality of treatment and opportunity for Panamanians with U.S. citizens throughout the Panama Canal Zone. Past and present Panamanian generations have held tenaciously to the tenet (the rallying cry) that Panama was a copartner with the United States at the turn of the present century in the construction of the engineering marvel known as the Panama Canal—contributing her most coveted natural resource (the ideally located narrow strip of land between the Atlantic and Pacific Oceans) while the United States brought to the selfsame enterprise its creative and revolutionary engineering skill, its creative medical knowledge and its essential financial resources.

The United States could unwittingly find itself in the political situation of being accused by present and future generations of Panamanians and also subversive elements throughout our Western Hemisphere of a brazen attempt on the part of its officials to reinstitute discriminations that have been eradicated throughout the Zone over the past decades.

(c) Separate collective bargaining could double the chances of probable difficulties and lower employee morale which could impede Canal operations.

(d) From an international relations perspective, it would be in the best interest of the United States, and even the Panamanian Government itself, to have one collective bargaining scheme for all. It should even lessen the chances of probably international and ideological harassment to the U.S. Government in the years ahead.



(e) A dual bargaining arrangement based on citizenship would result in strife, distrust and divisiveness which neither unions, employees or management need or desire at this point in history.

(f) Historically on the Panama Canal Zone, employees on military reservations have been oriented to similar employment treatment with U.S. citizens in all but one or two areas, where worldwide Armed Forces Policy made local application inadmissible or inadvisable.

(g) It is most important to note that employees of U.S. military agencies in Panama serve the same overall U.S. policy interest in this part of the world as would the Panama Canal Commission employees from an international or foreign policy standpoint. Patent or clearly apparent differences in treatment between the two large groups could complicate rather than facilitate U.S. long-term interest throughout Latin America and the Western Hemisphere, in general.

(h) The situation in Panama is a patently unique one, inasmuch as U.S. labor laws, U.S. Federal Regulations and Civil Service Regulations and Laws have been applied consistently for decades now. Continued application could in no way be viewed as a precedent for policy in overseas locations where the United States has never exercised jurisdiction and even titular sovereignty. It is to be noted that the Treaty provides for this, as expressed repeatedly by Senator Church during the Treaty Debates.

(i) Most importantly, one system for all should simplify administration by management and understanding by all employees.

(j) Title VII of the CSRA would negate all this, unless amended.

4. Throughout the world, foreign nations who work for the United States Department of Defense negotiate for wages with DOD. In Panama, non-U.S. citizens are paid according to a comparability wage scale but are protected by the federal minimum wage. Since the Panamanian minimum wage is much lower than the U.S. minimum wage, is it appropriate for the U.S. to pay minimum wage to non-U.S. employees in Panama?

The assumption is not necessarily true that throughout the world foreign nationals who work for the U.S. DOD negotiate with DOD. In past instances, as we understand it, the prevailing wage philosophy has normally been agreed upon by host country officials in the SOFA agreement concluded with the U.S. Government. Within that framework, a wage range is subsequently agreed upon and utilized by the unions involved.

There has existed no negotiation (as such) between management (DOD) and the union, except within this wage range. If anything, agreement has been between the two governments.

In Panama, it is to be borne in mind that the wage struggle has been the result of years of tedious, painstaking and continuing effort on the part of workers and their union to obtain equality of treatment for Panamanians (including other indigenous workers of this area) with their U.S. citizen counterparts. These workers and their leaders have held firmly all along to the thesis or tenet that Panama was technically a partner in the Canal enterprise at the turn of the century contributing the necessary and vital land (geography) while the U.S. Government provided the needed financing and engineering skill which made this world-famous project possible.

To this end, workers and their unions have always contended that there should be full and continuing equality of treatment as between Panamanian and U.S. workers employed throughout the Zone.

In 1950, the General Counsel's Office of the National CIO was petitioned for a legal opinion by Ed Gaskin (presently NMU Regional Representative in Panama and formerly President of Local 900, Government and Civic Employees' Organizing Committee), while on a labor scholarship in Washington, D.C. CIO General Counsel Arthur Goldberg's office informed him that the Fair Labor Standards Act did, in fact, apply in the Canal Zone. When Ed Gaskin informed the Canal Zone Governor of said legal opinion, Canal Zone Governor Francis K. Newcomer, in a letter dated 27 November, 1950, had this to say:

"Although the Canal Zone is included within the geographical scope of the Fair Labor Standards Act as a 'possession of the United States,' the U.S. Government, as an employer, is not subject to the Act (Section 3(d) of the Act, 29 U.S. Code 203(d)), either here or in the continental United States. Consequently, the Panama Canal and the Panama Railroad Company are not subject to the Act."

Sixteen years later, after persistent union efforts, local workers were finally successful in obtaining coverage in 1966 under the U.S. Fair Labor Standards Act. With the application of the minimum wage also came the tacit admission of the U.S. cost-of-living economy in that part of the world.

The attached exhibits provide our justification from an historical and moral standpoint as to why the U.S. minimum wage should continue to be paid in the Panama area and why even most U.S. union leadership on the Canal Zone support this position openly and consistently as being morally sound. (See attached Exhibits A, B and C.) [The exhibits were not printed.] These documents were prepared for and submitted to the Commander-in-Chief, Southern Command, and the Canal Zone Governor after recent consultation sessions with Canal Zone unions.

5. (a) What is the appropriate scope of bargaining for a union and the Panama Canal Commission or the Department of Defense? (b) Please explain why you think having the right to bargain over items like contracting out, use of military personnel, automation, and reductions-in-the-force is important?

We hold and maintain that all areas which have any impact whatsoever on employees' condition of employment, morale, general welfare (safety, fringe benefits, grievance machinery, etc.) should be subject to bargaining. In the Federal Government, however, from an historical standpoint, certain bargaining areas have been arbitrarily reserved for management. We would hope that the wage areas could be considered as within the scope for bargaining in the Panama area.

6. There has been some talk about giving the right to strike to Canal area employees. (a) Presently, is there any such right to strike? (b) Whether or not legal, have there been instances of work stoppages or slow-downs in the last few years? (c) Please explain the circumstances surrounding each, how it was resolved, and whether the job action was authorized by the union.

(a) Presently there exists no right to strike on the part of Canal area employees.

(b) While admittedly illegal, there have been at least two instances of slow-down in the last few years.

(c) In no instance was the job action authorized by the unions. Present union recognition procedures (even at the National level) under Executive Orders and law prohibits slow-downs or strikes by duly recognized unions.

7. How do you feel about a proposal to allow bargaining over wages, without the right to strike, leading to binding compulsory arbitration in the case of impasse?

For an answer to question number 7, please refer to question number 2.

8. How do you feel about requiring that a grievance procedure, negotiated between the agency and an exclusive representative union, lead to final and binding arbitration with no right of appeal or review?

We would favor some such requirement in a negotiated grievance procedure which would lead to final and binding arbitration with no right of appeal or review on the part of union or management.

9. (a) How important is it that the labor relations board responsible for overseeing labor-management relations in the Canal area be independent of agency control? (b) Would a board with all three members appointed by the Secretary of the Army be sufficiently independent? (c) Do you think the Federal Labor Relations Authority, created by Title VII of the Civil Service Reform Act, should do this job, instead of creating a separate board in Panama?

We shall ask (and Hope for Congressional concurrence) that such a Board be independent of Agency control. To this end, it is our considered opinion that a Board where those members are appointed by the Secretary of the Army would not be sufficiently independent.

If we could not get favorable consideration of our proposal under Option 6, we would welcome having the FLRA do the job in Panama.

10. Should Congress permit unions to negotiate union shop or agency shop arrangements with the Commission or DOD in Panama?

Yes. Union shop or agency shop arrangements are permitted elsewhere in the Federal Government. Any different treatment here would magnify and complicate the problem.

11. (a) Would organized labor be better served by having the labor management procedures specified in regulations or established by statute? (b) If the procedures were set out by regulation, should there be any limits on the power of the Secretary of the Army or the President to change those regulations?

In our considered judgment, we feel that organized labor would be better served by having the labor management procedures established by statute. If such is not forthcoming, we recommend establishment of clearly defined limitation on power of the Secretary of the Army, or the President, to change said regulations without the approval of Congress and concurrence by recognized unions.

12. Title VII of the Civil Service Reform Act provided judicial review of decisions of the Federal Labor Relations Authority in the case of arbitration awards and unit determinations. Would judicial review provisions be appropriate in the Panama context?



Yes, judicial review provisions would be appropriate in the Panama context.  
 13. What plans does your union have to help in the training of Panamanians to fill the jobs now held by U.S. citizens?

Our school has been made available in several offers committed to the Panamanian Government in training or unlicensed ship personnel at our New York facility.

14. (a) Does your union plan to organize Panamanians, when they supplant U.S. citizens in the jobs your union represents? (b) If so, does your union plan to register to do business in Panama?

Our union presently is composed of 96 percent Panamanian citizens who have voluntarily made us the largest single union in the Panama area because they possess faith in our integrity to protect their interests (under U.S. laws) without succumbing to political pressures from any quarter.

They have been witnesses throughout the years to the everpresent danger of seeing their leaders wilt under political pressure and succumb to personal ambitions and greed.

15. (a) What was the position of your union during the battle for passage of the Canal Treaty? (b) Were there members of your Canal Zone local who objected to that position?

We have, since the Treaty negotiations began some thirteen years ago, avoided taking a position on the Treaty. Our position has continually been to do what we could as labor unions to look out for our members and to leave the treaty negotiations to those expert in that field.

16. Would you have problems if Title VII of the Civil Service Act, with the restriction on representation of aliens or noncitizens removed, were made applicable to Federal employees of the Commission and of DOD in Panama?

There would be no problem whatsoever in having Title VII made applicable to Federal employees of the Commission and of DOD in Panama if the restriction on representation of aliens or noncitizens is removed and if the definition of supervisor is changed to reflect the customary and traditional situation for the unions involved in the operation of the Panama Canal. This is truly a unique situation and should be treated as one.

Respectfully submitted,

TALMADGE E. SIMPKINS,  
*Executive Director,*

---

CANAL ZONE CENTRAL LABOR UNION  
 AND METAL TRADES COUNCIL, AFL-CIO,  
*Balboa Heights, C.Z., March 9, 1979.*

Hon. JAMES M. HANLEY,  
*Chairman, House Post Office and Civil Service Committee, U.S. House of Representatives, Washington, D.C.*

DEAR CHAIRMAN HANLEY: In response to your letter of March 1, 1979, this organization would like to submit the following answers to the questions posed:

1. Yes, there will be fewer unions operating, but we do not know which ones because this would depend on how the bargaining units are defined. This is not good for the members of those unions forced out.

2. We believe that all persons should be able to organize and collectively bargain on all aspects of their terms and conditions of employment including wages.

3. Yes, for two reasons. An already unified work force would be divided and the application of Panama Labor Law to the Commission could result in the U.S. Government being brought before Panama Labor Court.

4. The question as posed contains an inaccuracy. Presently, all persons, regardless of citizenship, at a given level are paid the same base wage. There is a cutoff level between relating those wages bases to the United States and to the Canal Zone indirectly as percentages. If a smooth transition period is desired, it is more than appropriate to continue the U.S. minimum wage.

5. Full scope collective bargaining is appropriate. The right to bargain on the itemized issues is important so that employees can protect themselves from disruptive management actions which may in fact cost more in diminished morale than are actually gained in dollars and cents.

6. While there is no right to strike, there was a work stoppage three years ago when the Army cavalierly and arbitrarily raised the cutoff levels described in #4 above. The unauthorized action ended when the administration agreed to move toward meaningful collective bargaining instead of mere consultation.

7. We feel favorably about the proposal to permit wage bargaining without the right to strike leading to binding compulsory arbitration in case of impasse.



8. We agree with the grievance procedure described. The only review that should be permitted is judicial.

9. It is supremely important that the labor relations board be independent. A board appointed entirely by the Secretary of the Army is as unacceptable to us as all appointments being made by us would be to the administration. We are agreeable to using the FLRA.

10. It is desirable that Congress permit the negotiation of union shop or agency shop arrangements.

11. Assuming that the labor management procedures are acceptable, we would want them established by statute. If we do operate under regulations, they should only be changed through negotiation and not unilaterally.

12. Access to the courts is necessary to be able to assert our rights to the fullest.

13. Cooperation with the agency training programs will be directly proportional to the incentives received in the implementing legislation.

14. Our locals most certainly plan to organize Panamanians and have done so already. We do not plan to register in the Republic of Panama.

15. The CLU-MTC opposed the treaty passage. For all intents and purposes, this position was unanimously adopted.

16. We would still have problems with Title VII with the alien exclusion clause deleted if bargaining on our Stateside wage areas was not included as well as a guarantee that future superseding legislation would be applicable.

Thank you for giving us the opportunity to amplify upon our testimony.

Sincerely,

ALFRED J. GRAHAM, *President.*

---

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,  
*Washington, D.C., March 8, 1979.*

HON. JAMES M. HANLEY,

*Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, 309 Cannon House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: We are enclosing comments on the questions submitted by The Honorable Patricia Schroeder relative to testimonies presented before your Committee during hearings held on 16-17 February 1979 on the Panama Canal Treaty.

Some of the questions have been answered, in part, such as item No. 1. This question was divided in three parts in order to make clear what I want to put over on the subject matter.

It is hoped that our comments will help Mrs. Schroeder prepare her final position on recommendations germane to labor-management relations.

It was a pleasure appearing before your Committee in the Panama Canal Zone. The members of our team are all most appreciative for the patience, understanding and sincerity displayed by you and your distinguished colleagues throughout our presentation.

Very truly yours,

WILLIAM H. SINCLAIR.

---

ANSWERS TO QUESTIONS ASKED BY HON. PATRICIA SCHROEDER

1. (a) Will the establishment of a formalized structure of union recognition and collective bargaining, as envisioned by this legislation, result in fewer unions operating in the Canal area? *Yes.*

(b) Which unions are likely to be forced out? *Those failing to win an election held to determine the bargaining agent for a unit.*

(c) Is this a good thing? *Yes. It would be conducive to more serious labor-management relationships redounding to the best interest of management and labor.*

2. Title VII of the Civil Service Reform Act does not allow unions and management to bargain collectively over wages. What differences are there in the situation in Panama which would warrant wage bargaining here and not for Federal employees elsewhere?

*It is presumed that "Federal employees elsewhere" means federal employees within the Continental United States or working in areas under US political jurisdiction. As indicated in the AFSCME testimony before the House Subcommittee on Post Office and Civil Service, Title 7 may be tolerable in the United States where labor*

unions are able to exert considerable pressure in Congress to attain wage increases and other fringe benefits, which, in essence, is a form of "collective bargaining." However, the Panama Canal Commission and DOD agencies in Panama, will be playing a new ball game, under different rules after entry into force of the treaties of 1977.

Consequently, because of this new ball game, we hold that wage bargaining is a must for our unions, either under a special system devised by the Congress, direct negotiation between management and labor or in accordance with the general principles of the Panama Labor Code. There are several successful precedents related to wage bargaining in the U.S. federal service, i.e., the St. Lawrence Waterway, U.S. Postal Corporation, Tennessee Valley Authority and probably other areas not known to us at this time.

Accordingly, AFSCME holds that full scope collective bargaining, including wage bargaining, must be available to employees of U.S. federal government agencies operating in the Republic of Panama.

3. Title VII of the Civil Service Reform Act exempts from the definition of employees covered "an alien noncitizen of the United States who occupies a position outside the United States." As I read this, if Congress did nothing in relation to labor management for the Panama Canal Commission, the American employees of the Commission would be covered by Title VII and the Panamanian or other nationality employees would have to organize and bargain under the conditions set by the Commission. Would this be a bad situation?

From AFSCME's standpoint, it is felt that Title VII is not appropriate for any employee of U.S. federal agencies operating in the Republic of Panama, regardless of citizenship.

Basically, the assumption is correct that if Title VII remains, as is, U.S. citizens would be automatically covered under said Title.

As far as AFSCME affiliates in Panama are concerned we would not "have to organize and bargain under conditions set by the Commission." We would organize and bargain under conditions negotiated between unions and the Commission. If the Commission is to set the conditions, this view would be totally unacceptable. If the Commission negotiates the conditions, we will be glad to take our chances. We have confidence in our ability to negotiate and attain our objectives. Therefore, the situation would not be bad if we are allowed to negotiate labor-management relations conditions with the Commission.

4. (a) Throughout the world, foreign nationals who work for the United States Department of Defense negotiate for wages with DOD.

This is not only true, but, in addition, foreign nationals also receive from their DOD employer all fringe benefits stipulated in the labor codes or labor laws of those countries, plus whatever workers are able to negotiate through their unions.

In the case of Panama, DOD would be required to pay the "13th month" benefit, plus all other legally stipulated fringe benefits set forth in the Panama Labor Code.

(b) In Panama, non-U.S. citizens are paid according to a comparability wage scale but are protected by the federal minimum wage.

The Canal Zone Civilian Personnel Policy Coordinating Board has indicated the possibility that all on-board employees, as of 30 September 1979, would be guaranteed pay increases based on wage and salary movements in the Continental United States, but that the 1980 and 1981 increments of the U.S. federal minimum wage will not apply. Therefore, employees coming on-board after 1 October 1979 would not receive the same pay for similar job as the pay received by the "grand-fathered" employees. The agencies claim they will set salary and wages, basic fringe benefits and conditions of employment on a strictly unilateral basis. This is totally unacceptable to AFSCME Locals 900 and 907.

AFSCME and its Panama affiliates hold that the 1980 and 1981 FLSA increments are legislated commitments enacted prior to the signing of the treaties of 1977 and their ratification by the U.S. Senate in 1978. Therefore, we hold these two increments must be paid, notwithstanding the treaties.

(c) Since the Panamanian minimum wage is much lower than the U.S. minimum wage, is it appropriate for the U.S. to pay minimum wage to non-U.S. employees in Panama?

We hold it is not a question of whether payment of U.S. minimum rates is appropriate or not. It is our contention that neither the United States nor Panama will set minimum wages for DOD employees in Panama. Those rates will be negotiated between DOD and labor unions. It is to be noted that the ability of union leaders to negotiate and the capacity of the employer to pay are the two primary factors in labor-management relations in Latin America and the Caribbean. We hold that if the Panama Canal Company-Canal Zone Government, as an employer, had been



*negotiating with its employees, vis-a-vis, these two factors, the minimum wage would be higher than those now in effect in the Canal Zone. We restate our stand that we have confidence in our ability to negotiate. We are sure we would not come out second best in free collective bargaining negotiations.*

Furthermore, the thesis at hand is that U.S. Federal Agencies in Panama require all employees, U.S. and non-U.S. citizens, to perform all duties at a high, acceptable level of competence, complying with employment and performance standards set by the agencies. Consequently, the employer must adhere, at all times, to the philosophy of "equal pay for equal work" without regard to what may be determined as "lower" or "substandard" salaries and wages paid in the host country. If the concept is to be reduced to "paying whatever you can impose or get away with," then the agencies must surrender their right to demand acceptable level of competent performance by their employees in Panama.

5. (a) What is the appropriate scope of bargaining for a union and the Panama Canal Commission or the Department of Defense?

*We hold that free, full scope collective bargaining is the only appropriate yardstick to use. Here again, please let management and labor negotiate freely.*

(b) Please explain why you think having the right to bargain over items like contracting out, use of military personnel, automation, and reduction-in-force is important.

*The question, from our standpoint, is, "why not?" Every item listed represents repercussion on the workforce, ranging from mild to acute. Why should management unilaterally set these conditions, with all attendant adverse impacts, leaving workers to accept and groan over such adverse impacts? Would it not be fairer to let workers have a say as to what will or will not happen to them? As far as we are concerned, the issue is simple—leave the issues to free collective bargaining.*

6. (a) There has been some talk about giving the right to strike to Canal area employees.

*We hold "the right to strike" is not something "given" by anyone. It is an inalienable right for a worker under any free, democratic system of life. The right to strike for workers in both private and public sectors is recognized by the ILO. It is a basic labor principle. Accordingly, we feel the right to strike always exists, whether recognized or not. Time and again it is being demonstrated all over the world, under democratic or totalitarian systems, military dictatorships or otherwise, that when workers get angry enough they will strike, whether legal or not. On the other hand, having the right to strike does not mean it will be or has to be used or that union leaders will be able to force a strike if (1) the conditions or irritations that will justify a strike are not prevalent, or (2) if workers do not wish to strike, it is strictly academic. As a general labor principle, we want the legal right to strike.*

(b) Presently, is there any such right to strike? *The answer is in the negative.*

(c) Whether or not legal, have there been instances of work stoppages or slowdowns in the last few years? *Yes! In 1973 and 1976.*

(d) Please explain the circumstances surrounding each, how it was resolved, and whether the job action was authorized by the union.

1. *In 1973, the real issue for a job-action was never clear to us. AFSCME and its Panama affiliates were not involved. AFSCME played a role in obtaining a settlement of the job-action. This is our view.*

2. *In 1976 the job-action was not an AFSCME activity nor an activity of its Panama affiliates. The real reasons for the action were never made clear, even though we feel it was more a protest by U.S. citizens against the integration of housing, amalgamation and integration of the U.S. and Latin American schools' systems and a reduction in the amount of "security-protected" positions reserved for U.S. citizens, plus the easing of criteria for the recruitment of Panamanian nationals to the Canal Pilot Force, rather than to protect wage rates, which, in this instance, did not affect pilots. AFSCME was called upon and played a role in helping to settle the job-action.*

A part of the settlement reached was to place the Canal Zone base wage "cutoff" point at NM-5 and MG-9 pay levels in lieu of NM-6 and MG-10, which the Panama Canal Administration and DOD agencies had approved. The agencies also agreed to consider establishing a collective bargaining program. In all fairness to the organizations earmarked as proponents of the job-action, the retention of NM-6 and MG-10 as U.S. base pay rates and the "grandfathering" of all employees, U.S. and non-U.S. citizens, in pay levels NM-4 and NM-5, at U.S. pay base rates, benefitted many workers employed with U.S. federal agencies in Panama.

*No union claimed responsibility or publicly admitted authorizing either job-action, even though the Pilots Association was marked as proponent of the actions in 1973 and 1976. As we indicated in section "a", the matter of a strike or job-action is*



*academic. Management, in both instances, granted total amnesty to whoever was or were pinpointed as possible advocates of said actions. Legal or illegal, the actions came about while the agency was powerless to crush the workers, their unions or abolish the possibility of such actions recurring in the future.*

7. How do you feel about a proposal to allow bargaining over wages, without the right to strike, leading to binding compulsory arbitration in the case of impasse?

*Our position on the doctrine of the inalienable right to strike is set forth in item 6. If, however, the Congress, for its own reasons, prestige or face-saving gimmick, feels it cannot and should not sanction the right to strike, but is willing to authorize wage-bargaining, it would be acceptable to AFSCME to consent to "binding compulsory arbitration" for people associated with emergency public services such as policemen, but binding arbitration for all other workers. Since it is impossible to legislate away the strike weapon, and the matter is really academic, we would not consider its inclusion in a labor-management relations program as an inflexible requirement.*

8. How do you feel about requiring that a grievance procedure, negotiated between the agency and an exclusive representative union, lead to final and binding arbitration with no right of appeal or review?

*As a general principle, we feel the right to appeal or review is absolute. Therefore, we want that right to prevail.*

9. (a) How important is it that the labor relations board responsible for overseeing labor-management relations in the Canal area be independent of agency control?

*We consider this of superlative importance.*

(b) Would a board with all three members appointed by the Secretary of the Army be sufficiently independent?

*Not in our opinion. As a general principle we oppose the concept.*

(c) Do you think the Federal Labor Relations Authority, created by Title VII of the Civil Service Reform Act, should do this job, instead of creating a separate board in Panama?

*Because of the political jurisdiction issue at hand and attendant, inevitable divergence of opinions re interpretation of the treaty, plus the presence of Panamanian and U.S. members on the Board of the Panama Canal Commission, it is our belief that FLRA would become a football in this sensitive political arena; consequently, we hold that a separate board in Panama would be more appropriate and effective.*

10. Should Congress permit unions to negotiate union shop or agency shop arrangements with the Commission and DOD in Panama?

*We hold that Congress should not bar nor restrict the negotiation of union shop or agency shop arrangements with the Commission and DOD in Panama. U.S. courts have held that agency shop and union shop are not illegal for local and state governments in the United States. AFSCME has many arrangements of this type in the United States. We feel Congress should not discriminate against federal workers in the United States nor Panama by barring such procedures. The Panama Labor Code provides for the agency shop.*

11. (a) Would organized labor be better served by having the labor-management procedures specified in regulations or established by statute?

*We hold that the Congress should not legislate on this issue, for U.S. Federal employees in Panama, but, rather, should express broad rights and responsibilities leaving it to labor and management to work out labor-management relations systems, through negotiation between the parties.*

(b) If the procedures were set out by regulation, should there be any limits on the power of the Secretary of the Army or the President to change those regulations?

*We hold that the parties should negotiate the procedures and that the Secretary of the Army and/or the President should respect the outcome of negotiations between labor and management. We have confidence in our ability to negotiate and protect our interests. The President and Secretary of the Army should have similar confidence in the ability of their representatives.*

12. Title VII of the Civil Service Reform Act provides judicial review of decisions of the Federal Labor Relations Authority in the case of arbitrations awards and unit determinations. Would judicial review provisions be appropriate in the Panama context?

*Yes! We hold it to be appropriate in the Panama context.*

13. What plans does your union have to help in the training of Panamanians to fill the jobs now held by U.S. citizens?

*We shall do everything within our capabilities to provide, promote and seek avenues through which Panamanians may be trained to replace U.S. citizens whenever the latter are separated voluntarily, involuntarily, through retirement or death.*

14. (a) Does your union plan to organize Panamanians, when they supplant U.S. citizens in the jobs your union represents?

*This question does not apply to AFSCME or its Panama affiliates.*

(b) If so, does your union plan to register to do business in Panama?

*Local 900 and 907 are legally registered in Panama and accordance with provisions of the Panama Labor Code. It is the general view that all unions representing Panamanian nationals must do the same. This is a general requirement throughout the world where DOD or other U.S. Federal Government agencies employ local nationals. There is not a single case where a union is allowed to represent local nationals in a "SOFA country" without total compliance with labor laws of the host country. Panama cannot be the exception.*

15. (a) What was the position of your union during the battle for passage of the Canal Treaty?

*AFSCME and its Panama affiliates, Locals 900 and 907, have long recognized that the 1903 treaty was irrevocably clear in setting forth that the "United States would exercise all rights over the Panama Canal territory, as if it were sovereign." Consequently, the United States was not "sovereign." Panama never ceded its sovereignty over its territory, but only extended specific rights to the United States, over said territory, as if the "United States were sovereign."*

*Accordingly, AFSCME in its International Convention held in Hawaii in 1974, passed a resolution, introduced by Local 907, supporting Panama's aspirations to recover the use of its territory. Hence, as a legal principle and a national aspiration of the nation's citizenry, our unions supported the treaty, as an inevitable event, the time of which had come.*

(b) Were there members of your Canal Zone local who objected to that position?

*Yes! In a free society, citizens have the right to support or oppose whatever they deem fit. There were members of our local unions who expressed opposition to the treaty, mostly from a point of view caused through "a fear of the unknown" saddled with uncertainties, which we hope to correct through collective bargaining.*

16. Would you have problems if Title VII of the Civil Service Act, with the restriction on representation of aliens or non-citizens removed, were made applicable to Federal employees of the Commission and of DOD in Panama?

*For multiple reasons set forth in this document, almost valid and solid, Title VII of the Civil Service Reform Act, with or without citizenship restrictions, would not serve the purposes of true, free, enhanced and modern labor-management relations for U.S. Federal employees in Panama, particularly the non-U.S. citizen workforce.*

*Accordingly, we must once again most vehemently express our decided opposition to Title VII, or the creation of any system patterned after Title VII, particularly on its negation to wage bargaining, as a feasible vehicle to establish labor-management relations for U.S. Federal employees in Panama. Direct negotiation between labor and management, with no legislative restrictions, must be the source via which we arrive at an effective labor-management relations program.*

AMERICAN FEDERATION OF TEACHERS, AFL-CIO,  
Washington, D.C., March 16, 1979.

HON. JAMES M. HANLEY,  
Chairman, Committee on Post Office and Civil Service, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN HANLEY: My apologies for not having responded sooner to your letter of March 1. However, it was necessary to forward the letter from the Canal Zone to my New York office, where it arrived this morning.

Since the Committee asked for response by March 20, I suspect I will meet that deadline despite the prior loss of time.

My responses to the questions submitted by the Committee are attached. Each separate paragraph corresponds to each of the questions set forth.

I want to thank you for the opportunity provided to amplify my testimony with respect to the questions that were raised by Congresswoman Schroeder.

Sincerely,

JULES KOLODNY, Vice President.



RESPONSES BY JULES KOLODNY, VICE PRESIDENT, AMERICAN FEDERATION OF TEACHERS,  
TO QUESTIONS FOR UNION REPRESENTATIVES SUBMITTED BY THE COMMITTEE ON POST  
OFFICE AND CIVIL SERVICE

It seems to me there will likely be fewer unions, although at this time it is impossible to determine to what extent this would be true, because it would depend upon the nature of the bargaining units. A reduction in the number of bargaining units would be a disadvantage for those employees who get no representation, unless their rights are protected by being merged with other bargaining units.

I believe that all employees should have the right to organize and bargain collectively on the terms and conditions of their employment.

It seems to me that this might result in a dividend work force. It is also possible that the application of Panamanian labor law might result in the U.S. Government being brought before a Panamanian court. Consequently, I see two serious objections to the question framed around Title 7 of the Civil Service Reform Act.

Presently, all employees, regardless of citizenship, at each given level, are paid the same base wage. It seems that the wisest approach is to continue the U.S. minimum wage for Panamanian employees, at least during the transition period.

As I indicated in a previous response, all terms and conditions of employment are proper subjects of collective bargaining. To the extent that contracting out, the use of military personnel, automation, and reduction in force impinge so severely upon the terms and conditions of employment, these matters ought to be included within the collective bargaining process. I would add that frequently employers who see these items as only a money saving device and who do not examine the effect upon employee morale, are making a sad mistake, since there is a close relationship between employee morale and productivity.

While the employees in the Canal Zone have no right to strike, they did, in fact, do so in order to convince management that unilateral decisions which alter terms and conditions of employment are intolerable. The purpose of the strike was to convince management that collective bargaining is a sound procedure for settling employer-employee disputes.

The American Federation of Teachers is firmly convinced that the right to strike is a basic part of the bargaining process and that binding, compulsory arbitration without the right to threaten a strike is not the way to proceed. We do, as an organization recognize that there are certain occupations where life and limb are at stake and where some limitation on the right to strike may be imposed. We do not see this as applicable to teachers.

I would take the position that the final step in any grievance procedure should be binding arbitration, provided that the arbitrator is a third party, and impartial. It would seem to me also that if a legal or constitutional question is involved—and particularly in the latter case—there might have to be the right to judicial review if the case could be made that the arbitrator acted in an arbitrary and capricious manner, nor did he give any consideration to a possible constitutional issue.

I would say that, it is extremely important that any labor relations board created for the employees of the Zone be Independent. This means independent of the employer. Consequently, any board appointed by the Secretary of the Army, could not possibly be considered independent. However, any other federal board that deals with labor relations and which is not beholden to the Secretary of the Army for its appointment, seems to me to be satisfactory.

I feel it is a sound principle for the nature of the shop—whether union or agency—to be the subject of collective bargaining. Certainly, the outcome of the bargaining would be bi-lateral and neither of these shops could be imposed by the bargaining representation unit alone.

Labor management procedures would best be established by statute, so that the parties would know exactly the parameters within which they can operate. It may be necessary to have broad guidelines in the legislation, and then if the agency administering the process is independent, they could be established by regulations within the purview of the legislation. A unilateral change by the employer who controls the process would be intolerable and would make a sham of the entire process.

To the extent that Title 7 of the Civil Service Reform Act provides for judicial review, I would see no reason why it should be excluded when dealing with labor relations in Panama. Again, judicial review is a protection against unilateral and arbitrary—perhaps even unconstitutional—decisions being made by a government employer.

Training Panamanians to fill the jobs now being held by U.S. citizens would, to a great extent, depend on relations established between the professional staff of the schools and the Department of Defense. Much of this, in turn, may depend upon the terms set forth in the implementing legislation. All things being equal, and with



the rights of teachers in the Zone being adequately protected, I am fairly certain there would be cooperation in such training programs, particularly if American citizens would be reduced by attrition resulting from retirement or voluntary resignation. I might add that the present Canal Zone College faculty might well introduce programs for these very purposes. The Canal Zone Federation of Teachers, Local 29 of the American Federation of Teachers would, if course, organize Panamanians who work alongside of them—a practice which is current. The union has no plans to register for the purpose of continuing its activities in the Republic of Panama.

I must distinguish between the position taken by the Local in the Zone and the position taken by the National organization, the American Federation of Teachers with reference to the treaty issue. The Local, which is affiliated with the Canal Zone Central Labor Council, opposed the treaty, as did all the others in the Council. The American Federation of Teachers took no position on the treaty, pro or con. In asserting, however, that the terms, conditions, and rights of its members in the Canal Zone should be protected and not diminished, the American Federation of Teachers, by inference, was prepared to accept the treaty.

We would have problems with Title 7 with the alien exclusion clause deleted if bargaining on salaries was not included. I would very much like to see protected the terms and conditions of employment which teachers currently enjoy and have enjoyed over the years. These would include the Washington, D.C. salary system including steps, increments, and salary increases.

---

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS OF AMERICA,  
Gamboa, Canal Zone, March 15, 1979.

Hon. JAMES M. HANLEY,  
Chairman, House Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

SIR: This is in reply to questions posed by the House Committee on Post Office and Civil Service addressed to Canal Zone labor organizations:

1. (a) Will the establishment of a formalized structure of union recognition and collective bargaining, as envisioned by this legislation, result in fewer unions operating in the Canal area? (b) Which unions are likely to be forced out? (c) Is this a good thing?

(a) Not so much the Implementing Legislation, but rather the Treaties themselves will bring about a reduction of both U.S. and Panamanian employees as certain Canal operations are disestablished or turned over to the Panamanian Government.

(b) Primarily unions that restrict their membership to solely U.S. citizens.

(c) Unions are geared to supply and demand. Whether this is a good thing or not is irrelevant.

2. Title VII of the Civil Service Reform Act does not allow unions and management to bargain collectively over wages. What differences are there in the situation in Panama which would warrant wage bargaining here and not for Federal employees elsewhere?

First, the situation in Panama has been and will continue to be unlike any other U.S. presence overseas. The retention incentives for employees to remain with the Canal enterprise after the next five years are going to be hard to come by with the elimination of side benefits such as APO mailings, commissary and exchange privileges. These side benefits are shared by all U.S. Government Agency employees stationed overseas. It might be noted here that the State Department and other non-Panama Canal Federal Agency employees in Panama have and will continue to enjoy these side benefits. The past practices of the Panama Canal organization have been cradle-to-grave care. The Carter-Torrijos Treaties are mandating the employees to take care of themselves. What other retention incentives are there for the Canal employees other than wages?

3. Title VII of the Civil Service reform Act exempts from the definition of employees covered "an alien or noncitizen of the United States who occupies a position outside the United States." As I read this, if Congress did nothing in relation to labor management for the Panama Canal Commission, the American employees of the Commission would be covered by Title VII and the Panamanian or other nationality employees would have to organize and bargain under the conditions set by the Commission. Would this be a bad situation?

Yes. It would be tragically devious and create a de facto dual standard and destroy employee cohesiveness on the job. This union and the other unions who move the ships, the Panama Canal Pilots Association, NMU and CLU-MTC, have stated that we will not train personnel who will work for different wages or under different work rules.

4. Throughout the world, foreign nations who work for the United States Department of Defense negotiate for wages with DOD. In Panama, non-U.S. citizens are paid according to a comparability wage scale but are protected by the federal minimum wage. Since the Panamanian minimum wage is much lower than the U.S. minimum wage, is it appropriate for the U.S. to pay minimum wage to non-U.S. employees in Panama?

Yes. Otherwise it would create separate and unequal systems within the Canal enterprise. Congress established a single wage system in the Canal Zone; to abolish this would make a mockery of Treaty guarantees that the employees would not "realize anything less" because of the Treaties.

5. (a) What is the appropriate scope of bargaining for a union and the Panama Canal Commission or the Department of Defense? (b) Please explain why you think having the right to bargain over items like contracting out, use of military personnel, automation, and reductions-in-force is important.

(a) We believe in full-scope collective bargaining.

(b) The primary objective of the Carter-Torrijos Treaty is a smooth transition involving continued efficient operation of the Canal as well as the training of Panamanians. In order for Panama to become a full participating partner in this effort, labor is expected to respond in good faith to the spirit of the Treaty. The security afforded by negotiating these items will provide the retention incentives necessary for this desired result.

6. There has been some talk about giving the right to strike to Canal area employees. (a) Presently, is there any such right to strike? (b) Whether or not legal, have there been instances of work stoppages or slow-downs in the last few years? (c) Please explain the circumstances surrounding each, how it was resolved, and whether the job action was authorized by the union.

(a) No.

(b) Yes.

(c) There was a Pilots' action in 1973. Their response to this question would be more appropriate than ours. The incident in 1976 started with Locks Electricians and Canal Zone School Teachers. As more Canal employees took part in the "sick-out", Towboat Masters and Canal Pilots participated in sympathy. Causes of the "sick-out" can be attributed to low employee moral based on no information regarding their future with the Canal and lack of participation in determining future employment conditions. The Panama Canal employee has a history of being a complacent worker. In recent years, however, more and more benefits have been denied him by Executive or Agency decision without any recourse to impartial binding arbitration. In 1976 they became fed up.

The "sick-out" was resolved when management promised a contract for Canal workers—a promise that has not been realized to date. The International Organization of Masters, Mates and Pilots (IOMM&P) did not sanction the 1976 "sick-out".

7. How do you feel about a proposal to allow bargaining over wages, without the right to strike, leading to binding compulsory arbitration in the case of impasse?

We support it. See our "Option 6".

8. How do you feel about requiring that a grievance procedure, negotiated between the agency and an exclusive representative union, lead to final and binding arbitration with no right of appeal or review?

We support the option of judicial review. See our "Option 6".

9. (a) How important is it that the labor relations board responsible for overseeing labor-management relations in the Canal area be independent of agency control? (b) Would a board with all three members appointed by the Secretary of the Army be sufficiently independent? (c) Do you think the Federal Labor Relations Authority, created by Title VII of the Civil Service Reform Act, should do this job, instead of creating a separate board in Panama?

(a) It is extremely important if the workers' rights are to be protected from arbitrary Agency action.

(b) No, the board could be indirectly controlled by the Agency.

(c) No. We support the board concept laid down in "Option 6". It would provide a board that would be truly aware of prevailing local conditions.

10. Should Congress permit unions to negotiate union shop or agency shop arrangements with the Commission or DOD in Panama?

Yes. Under present Federal regulations, a recognized labor unit must support non-union employees in that unit when they have grievances. If the union fails to support the non-union employees to its fullest, the union can be charged with unfair labor practices. Therefore, it is only fair that the expenses be shared by all in the bargaining unit. Why should someone get something for nothing?

11. (a) *Would organized labor be better served by having the labor management procedures specified in regulations or established by statute?* (b) *If the procedures were set out by regulation, should there be any limits on the power of the Secretary of the Army or the President to change those regulations?*

(a) Procedures should be set down by statute. Regulations are far easier to change by agencies than by statutes.

(b) The regulatory powers of the Executive Branch should have extremely well-defined limits. It is our experience that Federal agencies make very broad interpretations with regard to their powers and prerogatives.

12. *Title VII of the Civil Service Reform Act provided judicial review of decisions of the Federal Labor Relations Authority in the case of arbitration awards and unit determinations. Would judicial review provisions be appropriate in the Panama context?*

Yes. See our "Option 6".

13. *What plans does your union have to help in the training of Panamanians to fill the jobs now held by U.S. citizens?*

Our branch of IOMM&P has been training and qualifying Towboat Masters for the last ten years.

14. (a) *Does your union plan to organize Panamanians, when they supplant U.S. citizens in the jobs your union represents?* (b) *If so, does your union plan to register to do business in Panama?*

(a) At present, 35% of our membership is Panamanian.

(b) We intend to operate under U.S. authority until 2000.

15. (a) *What was the position of your union during the battle for passage of the Canal Treaty?* (b) *Were there members of your Canal Zone local who objected to that position?*

(a) Our Branch of IOMM&P refused to participate in the debate over the political merits of the Treaty. We endorsed all efforts for labor protection, including the inclusion of a labor annex.

(b) The above position was not unanimously supported by the membership.

16. *Would you have problems if Title VII of the Civil Service Act, with the restriction on representation of aliens or noncitizens removed, were made applicable to Federal employees of the Commission and of DOD in Panama?*

The only problem is that we don't want title VII. We want our "Option 6".

Respectfully yours,

S. V. FAULKNER.

















UNIVERSITY OF FLORIDA



3 1262 09111 5641